the Congress of the Philippines in commemoration of the arrival of the Thomasite teachers; to the Committee on Foreign Affairs.

By Mr. OLSEN (for himself and Mr. NIX):

H. Res. 971. Resolution authorizing the Committee on Post Office and Civil Service to conduct studies and investigations relating to certain matters within its jurisdiction; to the Committee on Rules.

H. Res. 972. Resolution authorizing expenses for conducting studies and investigations pursuant to House Resolution 971; to the Committee on House Administration.

By Mr. WILLIAMS of Pennsylvania:

H. Res. 974. Resolution to urge the President to release the highway trust funds; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS:

H.R. 13957. A bill for the relief of Mathias C. Cabana; to the Committee on the Judiciary.

By Mr. BRASCO:

H.R. 13958. A bill for the relief of Leonardo Balistreri, his wife, Rosa Balistrari, and their children, Elvira and Silvana; to the Committee on the Judiciary.

H.R. 13959. A bill for the relief of Phillip Hebbon; to the Committee on the Judiciary.

H.R. 13960. A bill for the relief of Salvatore Lamendola; to the Committee on the Judiciary.

By Mr. BURTON of California:

H.R. 13961. A bill for the relief of Clementine U. Vander Porten; to the Committee on the Judiciary.

By Mr. DINGELL:

H.R. 13962. A bill for the relief of Aldo Lombardo; to the Committee on the Judiciary.

By Mr. GRAY:

H.R. 13963. A bill for the relief of Nasser Padash; to the Committee on the Judiciary.

By Mr. KUPFERMAN:

H.R. 13964. A bill for the relief of Nadia Canducci; to the Committee on the Judiciary.

By Mr. MULTER:

H.R. 13965. A bill for the relief of Giuseppe Di Stefano; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts:

H.R. 13966. A bill for the relief of Alfio Grasso; to the Committee on the Judiciary.

H.R. 13967. A bill for the relief of Paolo Rosolia; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 13968. A bill for the relief of Dr. Francisco J. Olazabal; to the Committee on the Judiciary.

By Mr. RYAN:

H.R. 13969. A bill for the relief of Lucius Edward Arnold and his wife, Ann Marie Arnold, and their children, Steven Watkins Lucius Arnold and Patricia Diane Marie Arnold; to the Committee on the Judiciary.

SENATE

THURSDAY, NOVEMBER 9, 1967

The Senate met at 12 o'clock meridian, and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

O God, our Father, as we rejoice in the gift of another day, may its hours be made luminous by Thy presence, who art the light of all our seeing.

The circumstances of our times are so appalling and dismaying to the gaze of our finite minds that the resources of our souls are utterly inadequate unless Thou renew them by a strength and power not our own.

In this global contest beyond the light and darkness, make us, as individuals, the kind of persons which Thou canst use as the instruments of Thy purpose for all mankind.

Open our eyes to see a glory in our common life with all its sordid failures, and in the aspirations of men for better things and for a fairer world—and which, at last, must burn away every barrier to human brotherhood as Thy kingdom comes and Thy will is done in all the earth.

We ask in the Redeemer's name. Amen.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8569) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1968, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. NATCHER, Mr. GIAIMO, Mr. PATTEN, Mr. PRYOR, Mr. MAHON, Mr. DAVIS of Wisconsin, Mr. MCDADE, Mr. RIEGLE, and Mr. BOW were appointed managers on the part of the House at the conference.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, November 8, 1967, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

DWIGHT HALL OWEN, JR.

Mr. PASTORE. Mr. President, as, on the calendar of 1967, we mark the approach of Veterans Day—when a grateful Nation pays tribute to the brave men and women who have served in its Armed Forces—I would like to pay my respects to a young civilian, Dwight Hall Owen, Jr., who on August 31, 1967, laid down his life in the jungles of Vietnam.

Three times Dwight Owen, Jr., had gone to Vietnam. A visitor in 1965, he fell in love with the country and its humble, harassed people. In 1966 he returned for the State Department to help in the refugee program.

Dwight, a student at Stanford University, had his home in Providence and his father is my good friend. Young Dwight came to my office in the summer of 1966 and so enthralled me with his adventures and views on Vietnam that I begged him to write me a report.

This report he finished June 10, 1967. His "Views on Vietnam" cover 37 pages—so timely and thought through that I have made it available to the proper agencies of the Government—and this although Dwight never found time to edit it.

Before he could find that time, he had returned to Vietnam at the request of the Agency for International Development.

He met his death attempting to save a village chief from an ambush by the Vietcong.

The quality of young Owen's report reflects the quality of this young man's mind.

I borrow the words of an associate who was with Dwight when he died. He wrote:

> His active, intelligent and articulate mind was certainly a great loss to his country and to those of us who knew him personally. Had he lived, it is certain that he would have occupied a great, responsible position in public or private American life.

Another associate relates how Dwight, more than any other, persuaded him to go to Vietnam. He tells how "Mr. Tall"—Dwight stood six-foot-five—so won the affection of the natives that upon his death they held "a memorial service of eternal remembrance."

So that our own memories may not be too short, and so that our own Americanism may be refreshed by an awareness of the dedication of some American youth to the cause of humanity, I ask unanimous consent that the thoughts of two associates of Dwight Owen, Jr.—the letter of Kenneth Harrison and the article by Michael Novak—be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PASTORE. It seems to me that the pages of the RECORD, so often seared in caustic debate, will be sweetened even if saddened by the saga of one who might have lived to serve in these Halls, and, dying, deserves to live forever in an immortal page of our history.

This may be that page.

For we have come to know how often the American page of heroism has been written, not in length of years but in the intensity and inspiration of those who shall remain young for all eternity.

Dwight Owen, Jr., had the courage to choose the path of daring, a path of mortal peril to his country, and the character to follow his choice to the end.

To such heroes, and to the homes

blessed by sons who could live and die so valiantly, America stands in everlasting debt and eternal tribute.

EXHIBIT 1.

DWIGHT HALL OWEN, JR.—THE AMERICAN "MR. TALL" DIES, AMBUSHED IN A LAND HE TRIED TO HELP

(By Michael Novak)

QUANG NGAI, September 1 (By mail).—The tall, lean Stanford man who more than any other persuaded me to come to Vietnam did not live to return with me. Dwight Hall Owen, Jr., 21, died yesterday, trying to save a Vietnamese Revolutionary Development chief from an ambush.

The V.C. hit Quang Ngai in force Wednesday night, Aug. 30. They dropped mortar fire on parts of the city, and then released nearly 1,200 prisoners from the city jail. Many of these prisoners are now believed to be reinforcing the 12 V.C. battalions thought to be operating in the province.

In a sweep of the area to seek the attackers the next day, Mr. Liu, the chief of district Revolutionary Development teams, was traveling toward Tu Binh village, east of Quang Ngai in the direction of Junk Base 16. Meanwhile, intelligence was received in Quang Ngai that two V.C. battalions were in the vicinity and that a heavy ambush was being set up for Liu and his small force.

A small group of American advisers, including Owen, left Quang Ngai about 10 a.m., Aug. 31, and sped toward Tu Binh to warn Liu. West of the village, they halted their jeeps and hurried by foot, trying to circumvent a possible ambush laid for them.

The small band reached Tu Binh and made contact with Liu. It was returning through rice paddies and cornfields when it made contact with strong enemy forces. A firefight with small arms and automatic weapons broke out.

The V.C. began firing mortar rounds on the Americans and Vietnamese. Vietnamese Regional and Popular forces in the area joined the struggle. Owen and a companion were breaking for fresh cover when a grenade landed between them.

The concussion dropped Owen to the ground. When he rose, he was struck by a bullet. With his companion's help, he was able to run another 100 yards towards the jeeps and possible help. But, he fell, too weak, and died.

Owen first came to Vietnam in the fall of 1965, on a trip around the world after his freshman year at Stanford. He soon grew to love the Vietnamese and to sympathize with their struggle for security and development. He toured the country, making friends with counter-insurgency leaders and becoming involved in actions with the Special Forces and other units.

In February, 1966, Owen first came to Quang Ngai province on a contract with the U.S. State department, to handle logistical problems connected with the refugee program. In the autumn, he returned to Stanford where he spoke often of the problems and complexities of the struggle in Vietnam.

Few Americans are committed to as full and as intelligent a vision of the Vietnamese struggle as Owen was. He was a severe critic of many aspects of American military policy. But he believed passionately and enthusiastically in the will of many Vietnamese to resist V.C. terror and to develop their land in peace. He was convinced that only a guerrilla war, fought with guerrilla techniques in close touch with the people, would be able to bring order to Vietnam.

In June of this year, Owen returned to Vietnam on another State department contract, this time to work directly in counter-insurgency warfare as adviser to several Revolutionary Development cadres.

The idea of such cadre—units of 59 young men in black pajamas trained to live with, work with, teach and defend the people—was virtually born in Quang Ngai province. The program requires patience, labor and time. In Quang Ngai it has encountered many disappointments as well as steady, modest successes.

Owen took pleasure in every new fence put up, well dug, hamlet road opened as "secure," village able to be visited freely.

Owen was an unusually tall young man, standing six-feet-five, and lean as a sapling. Vietnamese who did not know him as Mr. Owen called him "Mr. Tall."

I visited with Owen a total of one week during my month in Vietnam, on two different occasions.

Soon after his return to Vietnam, he told me, he was discouraged by the American emphasis on material, large operations and huge bases, and mania for opening and protecting highways. But the longer he stayed, he told me in our last conversation four days before he died, the more refreshed he felt.

The day before I arrived for my second visit, he said, he had visited a hamlet where people said they had never before seen an American. Owen's height, no doubt, amazed them as it did most Vietnamese. But they told him they were glad to meet an American, since they had heard Americans were trying to make life better for the people. He felt good about the conversation.

"I'm more and more convinced," Owen told me, "that the people don't like the V.C. They're afraid and they need security, but they don't like the V.C."

During his time in Vietnam. Owen wrote many reports urging a modification of American procedures and priorities. He liked to talk about the larger issues of the war. He sympathized with the peace movement, but found many in the movement widely mistaken in their views of what was actually happening in Vietnam.

In essence, he took the view that the U.S. was now committed to Vietnam, and that many Vietnamese desired and needed this commitment. He also believed that the present American response was much too military, impersonal and inappropriate for a guerrilla struggle among the people.

Owen had a contagious enthusiasm and a constant courage. He had been in many firefights. His Vietnamese counterpart, Lieut. Le, was a warm and affectionate friend of two years' standing. Owen often slept at Lieut. Le's quarters in Tu Nghia, his lanky frame extending uncomfortably over the edge of the six-foot cot kept there for his use.

Several Vietnamese friends called in sympathy on Embassy House, where he had lived, and others wrote brief letters of gratitude. The R.D. cadres had a memorial service in his honor two days after his death, beneath a banner to the "eternal remembrance of Dwight Hall Owen, Jr., who has sacrificed his life for the cause of Revolutionary Development."

A month earlier, almost to the day. Owen's Stanford sweetheart had left Quang Ngai after almost a week's visit. At that time, Tu Binh was relatively secure and they would have passed through it on their way to Junk Base 16, where they shared a Sunday picnic. Owen was very happy about that week, and very proud of his girl for coming.

His home was in Providence, R.I.

QUANG NGAI, RVN,
September 15, 1967.

DEAR MR. and MRS. OWEN: I have purposely delayed writing you this letter because I wanted to wait until I was no longer deeply depressed over Dwight's death. I feel a great attachment to Dwight, as if he were a brother. Not only was his death a great personal loss, but it was also mine and many other people's opinion that his death was a great loss to our country. Had he lived it is certain that he would have occupied a great responsible position in public or private American Life. His active, intelligent articulate mind was certainly a great loss to our country and to those of us who knew him personally.

Dwight was having a significant impact on the Vietnamese people and the eventual outcome of the war at the time of his death. He had started a nationwide program to get students and other leaders interested in the Revolutionary Development Program. He had written many valuable suggestions on how to improve our effort here ranging from organization, training, and operation of the ex-VC Armed Propaganda Teams to how to improve the Popular Force Soldiers fighting ability to how to involve the Buddhist Monks in the effort to win the confidence of the people to the Government of Vietnam. These are but a few of the ideas that he had and that were being put into effect. In one and one-half years in Vietnam, I have not seen anyone who had so many sound ideas on how to improve the Vietnamese effort. In addition to having many good ideas about how to improve the Vietnamese effort in Vietnam, Dwight also had the ability to win the respect and trust of the Vietnamese people. He could communicate with them very openly and easily. Because they liked him and trusted him it was very easy for him to influence the Vietnamese. He enjoyed so much success in dealing with the Vietnamese at all levels, older and more experienced Americans often became jealous of him. I say this because I feel it is an indication of his great ability.

I could relate the circumstances surrounding Dwight's death but I do not feel that it is necessary. I feel that it is sufficient to say that he died as a hero. He displayed a great deal of bravery just prior to his death. His Vietnamese interpreter stayed with Dwight even after Dwight had died, the interpreter had no ammunition, and there were many Viet Cong all around. His interpreter did this because of his devotion to Dwight.

The Vietnamese in Quang Ngai held a Memorial Service for Dwight in which the Province Chief and other leaders paid tribute to him. It was a very emotional experience. I am sending you some of the pictures and speeches under separate cover. This service indicated the very closeness of the Vietnamese people to Dwight. This was the first time that I had seen the Vietnamese organize a Memorial Service for an American.

I hope this letter gives you a little better perspective of the circumstances surrounding Dwight's death. The Vietnamese have a saying that when you have many people who are sad, it makes the burden lighter for everyone because there are more people to divide the sadness. There are many people here, Vietnamese and American, who want to share the sorrow and respectfully send their condolence to you in your time of sorrow.

I feel that all the people who have known Dwight will always try harder in their work in order to make up for our loss of Dwight. I also hope that his two brothers will carry on for him in their chosen fields of endeavor and when they marry that they will have large families to help make up for Dwight's heredity that is now lost to our future generations.

Please accept my deepest sympathy.

Sincerely,

KENNETH R. HARRISON.

FOLLY IN VIETNAM: A HERO'S CANDID VIEW

Mr. PELL. Mr. President, on this, the day before Armistice Day, it is particularly important that we recognize the fact that wars today are fought in great part by civilians and in the civilian sector, that the stakes are the minds and hearts of the people; and in Vietnam this civilian facet of war is, I believe, the principal one.

In this connection, I should like to call the attention of the Senate to the achievements and the views of an extraordinary young man from my State who recently lost his life in Vietnam.

His name was Dwight Hall Owen, Jr., and at the time of his death 2 months ago at the age of 21, he was on leave from his studies at Stanford University, serving on his second tour of volunteer duty as a civilian adviser in the combat area. He was not a soldier and although he was in the ROTC program at Stanford, he could have spent his college years in the peace and security of the classroom, had he elected to do so. But he went to Vietnam in the fall of 1965 on a personal tour and was so taken with what he saw that he returned a few months later as an AID representative in Quang Ngai Province. He returned again this year, again under State Department—AID—contract, to serve as adviser in the counter-insurgency movement or, as I prefer to call it, the democratic insurgency movement. It was while serving in this capacity that he was cut down by enemy fire near Quang Ngai on August 31.

Mr. President, that Dwight Owen, Jr., was an extraordinarily capable and dedicated young man was apparent from his achievements and his records. But what made his short life all the more remarkable and significant was the fact he had unusual powers of discernment and judgment, which he brought to bear on the conflict in Vietnam. He visited me in my office here shortly after he returned from his first mission, and I was profoundly impressed by him and what he had to say. He was neither a hawk nor a dove, as we have come to use those trite labels, but rather an independent man who believed in the cause of freedom for South Vietnam, while at the same time harboring some honest doubts and reservations about how his own Government was trying to achieve that objective. In August of 1966, he wrote me a letter in which he said, in part—

I firmly believe in what we are attempting to do and only disagree in some of our methods.

Since his death, I have been privileged to read a most thoughtful and candid, and, I might say, disturbing report entitled "Views on Vietnam" which Dwight Owen, Jr., wrote last June. In it he spares no detail about how the United States, for all its military might, has been outwitted, outfought, and outpoliticked by the Vietcong. The main point of his observations seem to be that the Vietcong are fighting a totally political war, with extreme flexibility and attention to political consequences, while the United States ponderously pursues a basically military objective, using clumsy military tactics that actually defeat our political objectives.

Dwight Owen's report tells, for example, how the U.S. forces persist in using clumsy outsize vehicles, such as personnel carriers, that chew up rice paddies and wreck irrigation dikes, causing untold hardship and bitterness. The Vietcong, by contrast, go everywhere on foot, enjoying greater flexibility, as a result; they rush in and help rebuild the rice paddies as soon as the mechanized American forces have departed, thus capitalizing on the havoc which our forces created.

Similarly, Mr. Owen's report tells how the Vietcong operating from temporary and expendable bases operate a tireless program of indoctrination and assistance in the hamlets and villages under the cover of darkness. United States and South Vietnamese units meanwhile have retreated to their more elaborate fixed bases, some of which have permanent quarters, television, ice cream and hot meals.

Our policy needs to be changed from "search and destroy" to "clear and hold," Mr. Owen recommended. Our military action should be followed up in each case by intense and continuing political activity that will match the efforts of the Vietcong, point for point, at every step of the way. His conclusion, as of June 1967, was the following warning:

A defeat is still a real possibility in Vietnam. We may achieve a military victory but fail to provide a government which will attract and hold the allegiance of the population against the Viet Cong. Thus far the political factor has been acknowledged in many speeches but neglected in policy formation and action in the field. We are approaching or may have passed the point at which we can no longer attract the people.

Mr. President, I am grateful indeed to have benefited from this incisive report on the situation in Vietnam, as seen by a clear-eyed young man who had no ax to grind and no cause to serve other than that of peace and freedom. I am impressed with the wisdom of his conclusion, so much so that I am undertaking, in conjunction with my distinguished senior colleague, Senator PASTORE, to circulate the Owen report to persons in Government who might be in a position to act on some of his observations. Dwight Owen's parents and family should take satisfaction not only from the fact that their son gave his life doing what he believed should be done, but also from the fact that his ideas and thoughts have survived him and may in time help to shape the course of the future.

SAWTOOTH NATIONAL RECREATION AREA, IDAHO

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 713, S. 1267.

The PRESIDENT pro tempore. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 1267) to establish the Sawtooth National Recreation Area in the State of Idaho, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 3, line 8, after the word "property", insert "or interests therein"; in line 10, after the word "property", insert "or interests therein"; after line 22, strike out:

SEC. 5. (a) The authority of the Secretary to acquire an interest in private property by condemnation shall be subject to the provisions of this section.

(b) The Secretary shall make and publish regulations setting standards for the use of privately owned property within the boundaries of the recreation area. Such regulations shall be generally in furtherance of the purposes of this Act and shall have the object of assuring that the use and development of privately owned property is consistent with the purposes of this Act and with the overall general plan of the Sawtooth National Recreational Area. Such regulations shall be as detailed and specific as is reasonably required to accomplish such objective and purpose. Such regulations may differ amongst the several parcels of private land in the boundaries and may from time to time be amended by the Secretary.

All regulations adopted under this Act shall be promulgated in conformity with the provisions of the Administrative Procedure Act: No regulation shall be promulgated for any purpose described in this Act unless a public hearing has been conducted and opportunity for review has been accorded in conformity with the provisions of sections 7 and 8 of the Administrative Procedure Act.

And, in lieu thereof, insert:

SEC. 5. (a) The authority of the Secretary to acquire an interest in private property within the recreation area without the owner's consent and by means of condemnation shall be limited to—

(1) the acquisition of scenic easements when the private owner fails to use his property in conformance with the standards of a use provided for in subsection (b) of this section, and

(2) the acquisition of easements for access to and utilization of public property: Provided, That such acquisition shall not exceed 5 per centum of the total acreage of all private property within the recreation area as of the effective date of this Act.

(b) The Secretary shall make and publish regulations setting standards for the use, subdivision, and development of privately owned property within the boundaries of the recreation area. Such regulations shall be generally in furtherance of the purposes of this Act and shall have the object of assuring that the highest and best private use, subdivision, and development of such privately owned property is consistent with the purposes of this Act and with the overall general plan of the Sawtooth National Recreation Area. Such regulations shall be as detailed and specific as is reasonably required to accomplish such objective and purpose. Such regulations may differ amongst the several parcels of private land in the boundaries and may from time to time be amended by the Secretary. All regulations adopted under this Act shall be promulgated in conformity with the provisions of the Administrative Procedure Act. The United States District Court for the District of Idaho shall have jurisdiction to review such regulations after their effective date, upon a complaint filed by any affected landowner, in an action for a declaratory judgment.

On page 6, line 9, after the word "appropriated", strike out "funds", and insert "funds,"; in line 12, after the word "land", strike out "(including the air space above such land)"; in line 14, after the word "prelude", strike out "any customary or traditional", and insert "the continuation of any"; in line 16, after the word "owner", strike out "prior to the acquisition of the easement.", and insert "as of the date of this Act."; after line 17, strike out:

(d) Where an owner of private property within the exterior boundaries of the recreation area as of the date of this Act, or his heirs, desires to dispose of such prop-

erty to the Federal Government, the Secretary shall purchase said property at a price that shall include compensation for any decrease in the value thereof that may have resulted from the promulgation of regulations, zoning or scenic easements as a consequence of the establishment of the recreaction area: *Provided, however,* That the provisions of this subsection shall cease to be in effect after a period of ten years from the date of enactment of this Act.

And, in lieu thereof, insert:

(d) Where an owner of private property within the exterior boundaries of the recreation area as of the date of this Act, or his heirs and devisees, desires to dispose of such property to the Federal Government, the Secretary shall purchase said property at a price that shall include compensation for any decrease in the value thereof not previously compensated for under the provisions of this Act that may have resulted from the promulgation of regulations, standards, or other consequences of the establishment of the recreation area. In the event the Secretary and the owner are unable to agree upon the purchase price, and the Secretary declines to complete the purchase, the owner may file a complaint setting out these facts, together with a good and sufficient deed to the property, in the United States District Court for the District of Idaho. After the filing of an answer by the United States, the case shall be treated to the extent possible, in the same manner as an action for the condemnation of property brought by the United States: *Provided, however,* That the provisions of this subsection shall cease to be in effect after a period of ten years from the date of the enactment of this Act.

On page 7, after line 23, strike out:

(e) The limitations hereinabove set forth on the authority to condemn an interest in lands shall not apply to property which the Secretary determines to be needed for easements for access to and utilization of public property: *Provided,* That the acquisition for such purposes shall not exceed 5 per centum of the total acreage of all privately owned property in the recreation area.

On page 8, line 20, after "SEC. 7.", strike out "Recommendations", and insert "Provisions for review, recommendations,"; on page 9, line 18, after the word "the" where it appears the second time, strike out "States" and insert "State"; on page 10, line 6, after the word "There", insert "is"; and in the same line, after the word "appropriated", strike out "such sums as may be necessary", and insert "not more than $27,380,000"; so as to make the bill read:

S. 1267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to assure the preservation of, and to protect the scenic, historic, pastoral, fish and wildlife, and other recreational values of the Sawtooth Mountains and adjacent valley lands, there is hereby established, subject to valid existing rights, the Sawtooth National Recreation Area.

SEC. 2. The boundaries of the recreation area shall be those shown on the map entitled "Proposed Sawtooth National Recreation Area", dated April 1, 1966, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter called the "Secretary") shall, as soon as practicable after the date this Act takes effect, publish in the Federal Register a notice of the establishment of the Sawtooth National Recreation Area, together with a detailed description and map showing the boundaries thereof.

SEC. 3. The Secretary shall administer the Sawtooth National Recreation Area in such manner as will best provide for (1) the protection and conservation of the salmon and other fisheries, (2) the conservation and development of scenic, historic, pastoral, wildlife, and other values contributing to and available for public enjoyment, including the preservation of sites associated with and typifying the economic and social history of the American West; and (3) on federally owned lands, the management, utilization, and disposal of natural resources, such as lumbering, grazing, and mining, that will not substantially impair the purposes for which the recreation area is established.

SEC. 4. Subject to the limitations hereinafter set forth, the Secretary may acquire by purchase with donated or appropriated funds, by gift, exchange, bequest, or otherwise, such lands or interests therein within the boundaries of the recreation area as he determines to be needed for the purposes of this Act. But any property or interest within the recreation area owned by the State of Idaho or any political subdivision thereof may be acquired under the authority of this Act only with the concurrence of the owner.

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property or interests therein located within the boundaries of the recreation area and convey to the grantor of such property any federally owned property or interests therein within the State of Idaho under the jurisdiction of the Secretary, notwithstanding any other provision of law. The properties so exchanged shall be approximately equal in fair market value: *Provided,* That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act.

SEC. 5. (a) The authority of the Secretary to acquire an interest in private property within the recreation area without the owner's consent and by means of condemnation shall be limited to—

(1) the acquisition of scenic easements when the private owner fails to use his property in conformance with the standards of a use provided in conformance with the standards of a use provided for in subsection (b) of this section, and

(2) the acquisition of easements for access to and utilization of public property: *Provided,* That such acquisition shall not exceed 5 per centum of the total acreage of all private property within the recreation area as of the effective date of this Act.

(b) The Secretary shall make and publish regulations setting standards for the use, subdivision, and development of privately owned property within the boundaries of the recreation area. Such regulations shall be generally in furtherance of the purposes of this Act and shall have the object of assuring that the highest and best private use, subdivision, and development of such privately owned property is consistent with the purposes of this Act and with the overall general plan of the Sawtooth National Recreation Area. Such regulations shall be as detailed and specific as is reasonably required to accomplish such objective and purpose. Such regulations may differ amongst the several parcels of private lands in the boundaries and may from time to time be amended by the Secretary. All regulations adopted under this Act shall be promulgated in conformity with the provisions of the Administrative Procedure Act. The United States District Court for the District of Idaho shall have jurisdiction to review such regulations after their effective date, upon a complaint filed by any affected landowner, in an action for a declaratory judgment.

(c) To assure that private land within the boundaries of the national recreation area is used in a manner which is not detrimental to the purposes of this Act, the Secretary is authorized to procure by gift, purchase with donated or appropriated funds, or otherwise, scenic easements within the boundaries of the recreation area.

As used in this Act the term "scenic easement" means the right to control the use of land in order to protect the esthetic values for the purposes of this Act, but shall not preclude the continuation of any use exercised by the owner as of the date of this Act.

(d) Where an owner of private property within the exterior boundaries of the recreation area as of the date of this Act, or his heirs and devisees, desires to dispose of such property to the Federal Government, the Secretary shall purchase said property at a price that shall include compensation for any decrease in the value thereof not previously compensated for under the provisions of this Act that may have resulted from the promulgation of regulations, standards, or other consequences of the establishment of the recreation area. In the event the Secretary and the owner are unable to agree upon the purchase price, and the Secretary declines to complete the purchase, the owner may file a complaint setting out these facts, together with a good and sufficient deed to the property, in the United States District Court for the District of Idaho. After the filing of an answer by he United States, the case shall be treated to the extent possible, in the same manner as an action for the condemnation of property brought by the United States: *Provided, however,* That the provisions of this subsection shall cease to be in effect after a period of ten years from the date of the enactment of this Act.

SEC. 6. Nothing in this Act shall affect the applicability of the United States mining and mineral leasing laws on the federally owned lands within the recreation area, except that all mining claims located or leases issued after the effective date of this Act shall be subject to regulations the Secretary may prescribe to effectuate the purposes of this Act. Any patent issued on any mining claim located after the effective date of this Act shall recite this limitation and continue to be subject to such regulations. All such regulations shall provide, among other things, for such measures as may be reasonable to protect the scenic and esthetic values of the recreation area and to assure against pollution of the Salmon River and other streams and waters within the recreation area.

SEC. 7. Provisions for review, recommendations, and other procedures of the Wilderness Act of September 3, 1964, shall apply to the Sawtooth Primitive Area and adjacent public lands within the national forests. The Secretary of Agriculture shall comply with the requirements of section 3 of said Act in relation to such primitive area in an expeditious manner.

SEC. 8. The Secretary may cooperate with other Federal agencies, with State and local public agencies, and with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of this Act, in cluding, but not limited to, the restoration and maintenance of the historic setting and background of the old mining town of Atlanta and the frontier ranch-type town of Stanley.

SEC. 9. Nothing in this Act shall diminish, enlarge, or modify any right of the State of Idaho, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property.

including mineral or other interests, in or on lands or waters within the recreation area.

SEC. 10. Nothing in this Act shall affect the jurisdiction or responsibilities of the State of Idaho under other provisions of law with respect to hunting and fishing.

SEC. 11. The jurisdiction of the State and the United States over waters of any stream included in the Sawtooth National Recreation Area shall be determined by established principles of law. Under the provisions of this Act, any taking by the United States of water right which is vested under either State or Federal law at the time of enactment of this Act shall entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

SEC. 12. Money appropriated from the land and water conservation funds shall be available for the acquisition of lands and scenic easements for the purposes of this Act. There is hereby authorized to be appropriated not more than $27,380,000 to carry out the provisions of this Act.

Mr. MOSS. Mr. President, the pending bill is S. 1267. I wish to point out that it is rare that one government will cede to another a large block of its territory without a great deal of fanfare or even a modicum of bloodshed. But I would like to call the Senate's attention to the fact that such a phenomenon has occurred.

According to the Daily Digest of the CONGRESSIONAL RECORD for Tuesday, November 7, 1967, Idaho has silently deeded her beautiful Sawtooth Mountain Range to my State of Utah.

Mr. President, I now read from the Daily Digest of Tuesday, November 7, 1967, at page D1001, under "Bills Reported:"

S. 1267, to establish the Sawtooth National Recreation Area in Utah, with amendments (S. Rept. 730).

Mr. President, I take this opportunity to thank my colleagues, Senator CHURCH and Senator JORDAN of Idaho, for this most generous gift. It will compliment our great Uinta Range and Wasatch Range, our Flaming Gorge and Glen Canyon Recreation Areas. I thank my colleagues.

Mr. CHURCH. Mr. President, I wish to say to the Senator from Utah that I read the Daily Digest of the CONGRESSIONAL RECORD as he does, and I must concede it does indicate the title to the Sawtooth Mountains has been transferred to the State of Utah. However, I emphasize that there was a condition attached to that transfer: It is to be f.o.b. Unless you can remove the mountains from the premises within 24 hours the title reverts to the donor.

I would like to take this moment to point out that no matter what the CONGRESSIONAL RECORD states in the Daily Digest, the Sawtooth Mountains remain the proud possessions of Idaho and hopefully will remain our property for some time to come. So proud are we of the grandeur of the Sawtooths that we would urge hasty and favorable action on the bill that would name this range a national recreation area.

Mr. MOSS. Mr. President, I fully support S. 1267. The Sawtooths in Idaho or Utah are superb, and should be preserved for the enjoyment of all Americans for all time.

Mr. CHURCH. Mr. President, the bill now before us, S. 1267, would establish the Sawtooth National Recreation Area in central Idaho in one of the most magnificent mountain regions of the West.

This is, Mr. President, an area which in the past has been under consideration for a national park. However, field hearings which my distinguished colleague and the cosponsor of the bill [Mr. JORDAN of Idaho] and I arranged and attended in Idaho last year demonstrated overwhelming support for a national recreation area in place of the national park. During 2 days of hearings, we received excellent testimony from a large number of Idaho citizens, including those most familiar with the area. Afterward, we carefully sifted through that testimony and undertook to redraft the bill in the light of the fine recommendations we received. We think the bill, as we consider it today, represents the closest possible reflection of what seemed to be the strong concensus of the people of our State.

The Subcommittee on Parks and Recreation conducted hearings on S. 1267 on August 23 of this year, and subsequently amended and favorably reported the bill to the full Committee on Interior and Insular Affairs on September 25. The committee voted unanimously on October 25 to report the measure to the Senate.

Mr. President, a major purpose of S. 1267 is to preserve the upland of the Sawtooth Mountains—an escarpment that thrusts 42 snowcapped peaks to elevations of more than 10,000 feet. The peaks tower over alpine-type lakes, rushing white water and majestic evergreen forests. The uplands are presently in the Sawtooth primitive area, but it is the intent of S. 1267 to facilitate their inclusion in the national wilderness system.

Another major purpose of the bill is to preserve the attractive lowlands, which include the Sawtooth Valley and Stanley Basin. Here, vast green pastures, grazing livestock, log fences and ranch houses provide an authentically "old western" atmosphere and scenic foreground to the jagged mountain peaks. The bill has been drawn to encourage the continued operation of the livestock ranches, with condemnation only for scenic easement, and provision for regulations by the Secretary of Agriculture to prevent unsightly commercial development.

The size of the recreation area would be approximately 351,000 acres. Of this there is about 195,000 acres in the Sawtooth primitive area, 122,000 in adjoining national forest land, 110,400 unreserved public domain land, 1,600 State-owned land, and 22,400 acres of privately owned land. The recreation area would be administered by the Forest Service.

Mr. President, the influx of the out-of-State visitors to the vast mountain regions of Idaho has mushroomed in recent years. Thousands of people come from throughout the Nation to hunt and fish or boat down our wilderness rivers. Others come to camp out, marvel at the spectacular scenery, or seek the mountain solitudes. The creation of a Sawtooth National Recreation Area will assure the additional facilities needed to accommodate visitors to the area.

The area is located 75 miles east of Boise, Idaho, the State's largest metropolitan center, and 40 miles north of Sun Valley, Idaho, and can be reached by good highways.

Establishment of the recreation area will also make a contribution to the economy of the State and region. Perhaps most importantly, it will guarantee the integrity of the upland wilderness, which for many years has been one of my concerns, as it has been that of many outdoorsmen and conservationists in my State. Not only is the upland important for its beauty and recreation potential, it is also the fountainhead of three great rivers, the Salmon, Payette, and Boise—which are fed by the high mountain snowfields.

The upper branches of the Salmon River constitute the last remaining major nursery of the Pacific Northwest for salmon and steelhead, the anadromous fish which fight their way up from the Pacific Ocean to spawn in the mountain shallows. This bill looks to their protection.

Mr. President, a great deal of work has gone into the preparation of this proposed legislation, and we think it is a very constructive measure. I hope the Senate will give it prompt approval.

Mr. President, I now yield to my distinguished colleague from Idaho.

Mr. JORDAN of Idaho. Mr. President, I appreciate very much the remarks of the distinguished junior Senator from Utah [Mr. Moss] in trying to claim the Sawtooth National Recreational Area for his own State of Utah. We want to express our appreciation to him for coming to help us at the hearings in Sun Valley, Idaho, on the bill. But, as he knows, there is about as much chance of moving the Sawtooth Mountains into Utah as there is of moving Salt Lake City from Utah into Idaho.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER (Mr. PELL in the chair). Without objection, the amendments will be considered en bloc and are agreed to en bloc.

Mr. JORDAN of Idaho. Mr. President, I am pleased to join my distinguished colleague, Senator CHURCH, in urging the Senate to adopt S. 1267, a bill to establish the Sawtooth National Recreational Area in central Idaho.

The Sawtooth Mountains have been a source of attraction ever since the first fur trappers and miners came upon them many years ago. It is difficult to describe their grandeur. They are mountains of a savage and truly awesome natural beauty, dotted with crystalline mountain lakes and green alpine meadows. And there is great charm in the valley approaches to these mountains. Most of this country is little changed from the way it looked when originally settled. One can still capture the flavor of the old West there.

The bill provides a recreation area in the Sawtooth country under the supervision of the U.S. Forest Service. The total area encompassed is about 351,400 acres: 195,000 now in the Sawtooth primitive area; about 22,400 in private

ownership; 10,400 public domain land; 1,600 owned by the State and approximately 122,000 acres of Federal forestland available for multiple use.

Included in the boundaries of this area are unspoiled lakes such as Redfish, Stanley, Alturas, and Yellowbelly, and wild reaches of the Salmon, Payette, and Boise Rivers. The area offers exceptionally fine opportunities for hiking, camping, fishing, or just looking in a spectacular mountain and forest environment.

Presently, the beauty and unique western character of this environment is being threatened in some measure by subdivision of the meadows and fields near Highway 93 in the Sawtooth Valley. Some of this development is incompatible with the scenic and historic integrity of the area. To protect this integrity we need regulation of developments and scenic easements.

On the valley lands we believe that grazing, typical ranching facilities, and appropriately located and designed business structures and houses can be harmonized with national recreation area objectives.

The migration of salmon and steelhead trout to the headwaters of the Salmon River reaches into the proposed recreation area. The continuation of this unusual recreation resource is dependent in part on the preservation of the spawning grounds. To maintain the run, we need to protect the spawning beds.

The local economy in the Sawtooth country is dependent to a great extent on the use of commodity-type natural resources—forage, timber, minerals, fish, and game. The limited private ownership in Stanley Basin and Sawtooth Valley is essential to the tax base of rural counties. Public ownership consolidation and development management programs therefore must be geared to serving the maximum public benefit with the least possible negative impact on existing or potential business and on the tax resources of local government.

Under this bill, the land now designated as primitive area would remain primitive and in due course would be presented to Congress for inclusion in the national wilderness system. The lands outside the primitive area would undergo careful, conservation-oriented development to accommodate an increase in recreation pressure. Multiple use of the area including grazing and domestic livestock raising, public hunting and fishing, timber harvesting, and other managed resource utilization would be permitted to the extent these are compatible with the objectives of the complete recreation area program. The development of mineral resources would be authorized with regulation.

Preservation of the rustic western atmosphere would be actively encouraged. Cooperative programs of State, county, and local agencies and groups would be pursued. Scenic easements to protect the lands would be acquired and easements for needed public access roads would be obtained.

Mr. President, this bill is the outgrowth of extensive consultation with concerned local interests, public hearings and liaison with Federal agencies. I believe that it represents a unique approach in its attempt to accommodate the legitimate desires of local residents with the objectives of a national recreation area. I think it is an approach that will work.

Having been a rancher myself for many years, I know what it is to be a working conservationist. And I know how seriously livestock operators take their conservation responsibilities in this day and age.

I am convinced that Idaho's mountain and valley land resources must be managed under the concept of multiple use and continued yield if our State is to develop economically and to prosper. I am equally devoted to the idea that we must preserve and protect our natural heritage. These two necessities, if wisely handled, are not incompatible. I think the establishment of Sawtooth National Recreation Area will show this to be true.

I urge the Senate to approve this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Jones, one of his secretaries, and he announced that on November 7, 1967, the President had approved and signed the act (S. 1160) to amend the Communications Act of 1934 by extending and improving the provisions thereof relating to grants for construction of educational television broadcasting facilities, by authorizing assistance in the construction of noncommercial educational radio broadcasting facilities, by establishing a nonprofit corporation to assist in establishing innovative educational programs, to facilitate educational program availability, and to aid the operation of educational broadcasting facilities; and to authorize a comprehensive study of instructional television and radio; and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the following Senator to attend the 28th session of the Intergovernmental Committee for European Migration, to be held at Geneva, Switzerland, on November 13 through 17, 1967: EDWARD M. KENNEDY.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of selected program activities at the Park Job Corps Center, Office of Economic Opportunity, dated November 1967 (with an accompanying report); to the Committee on Government Operations.

SIXTH REPORT OF THE FEDERAL VOTING ASSISTANCE PROGRAM

A letter from the Secretary of Defense, transmitting, pursuant to law, the Sixth Report of the Federal Voting Assistance Program covering the period from September 1965 to September 1967 (with an accompanying report); to the Committee on Rules and Administration.

REPORT OF FEDERAL CONTRIBUTIONS PROGRAM EQUIPMENT AND FACILITIES

A letter from the Acting Director of Civil Defense, Department of the Army, Office of the Secretary of the Army, Office of Civil Defense, transmitting, pursuant to law, the report of Federal Contributions Program Equipment and Facilities (Reporting Symbol OCD–CONG(Q)2) for the quarter ended September 30, 1967 (with an accompanying report); to the Committee on Armed Services.

PROPOSED AMENDMENT OF PACKERS AND STOCKYARDS ACT, 1921

A letter from the Acting Secretary, Department of Agriculture, transmitting a draft of proposed legislation to amend the Packers and Stockyards Act, 1921 (with accompanying papers); to the Committee on Agriculture and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BARTLETT, from the Committee on Commerce, without amendment:

S. 2324. A bill to amend the act prohibiting fishing in the territorial waters of the United States with respect to the penalties provided thereunder (Rept. No. 736).

By Mr. JACKSON, from the Committee on Armed Services, without amendment:

S. 2428. A bill to authorize the Secretary of the Army to convey to the State of Washington certain lands in the counties of Yakima and Kittitas, Wash., in exchange for certain other lands, and for other purposes (Rept. No. 741).

By Mr. SYMINGTON, from the Committee on Armed Services, without amendment:

H.R. 5784. An act to authorize the disposal of molybdenum from the national stockpile (Rept. No. 738);

H.R. 5787. An act to authorize the disposal of rare-earth materials from the national stockpile and the supplemental stockpile (Rept. No. 739); and

H.R. 5788. An act to authorize the disposal of bismuth from the national stockpile and the supplemental stockpile (Rept. No. 737).

By Mr. ERVIN, from the Committee on Armed Services, with an amendment:

S. 320. A bill to authorize the Secretary of the Army to release certain use restrictions on a tract of land in the State of North Carolina in order that such land may be used in connection with a proposed water supply lake, and for other purposes (Rept. No. 740).

By Mr. BIBLE, from the Committee on Appropriations, with amendments:

H.R. 13606. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30,

1968, and for other purposes (Rept. No. 742).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

Frank W. Lehan, of California, to be an Assistant Secretary of Transportation; and

Donald E. Northrup, and sundry other persons, for permanent appointment in the Environmental Science Services Administration.

Mr. MAGNUSON. Mr. President, from the Committee on Commerce, I report favorably sundry nominations in the Coast Guard. Since these names have previously appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Frank M. Sperry, and sundry other officers, to the permanent commissioned officers of the Coast Guard.

Mrs. SMITH. Mr. President, from the Committee on Armed Services I report favorably the nomination of two Air Force general officers, and ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to be placed on the Executive Calendar, are as follows:

Lt. Gen. Richard L. Bohannon, (major general, Regular Air Force Medical), U.S. Air Force, to be placed on the retired list in the grade of lieutenant general; and

Maj. Gen. Kenneth E. Pletcher, Regular Air Force Medical, for appointment as Surgeon General of the Air Force, in the grade of lieutenant general.

Mrs. SMITH. Mr. President, in addition, I report favorably 342 appointments in the Army in the grade of lieutenant colonel and below, 4,644 promotions in the Navy in the grade of captain and below, and 325 appointments in the Marine Corps in the grade of lieutenant colonel and below. Since these names have already been printed in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations ordered to lie on the desk are as follows:

Herman C. Abelein, and sundry other officers, for promotion in the Navy;

Vincent A. Albers, Jr., and sundry other officers, for promotion in the Marine Corps;

John A. Baggett, for appointment in the Regular Army;

Burton S. Boudinot, and sundry other persons, for appointment in the Regular Army of the United States;

Henry Austin III, and sundry other distinguished military and scholarship students, for appointment in the Regular Army of the United States;

William J. Baballs, and sundry other officers, for promotion in the Navy;

Sam R. Baker II, and sundry other staff noncommissioned officers, for appointment in the Marine Corps; and

Jack A. Frost, Marine Corps, for reappointment in the Regular Marine Corps.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, referred as follows:

By Mr. KENNEDY of New York:

S. 2643. A bill to provide that the U.S. District Court for the Eastern District of New York shall be held at Brooklyn, N.Y., and Mineola, N.Y.; to the Committee on the Judiciary.

(See the remarks of Mr. KENNEDY of New York when he introduced the above bill, which appear under a separate heading.)

By Mr. PASTORE:

S. 2644. A bill to amend the Atomic Energy Community Act of 1955, as amended, the Atomic Energy Act of 1954, as amended, and the EURATOM Cooperation Act of 1958, as amended; to the Joint Committee on Atomic Energy.

By Mr. HANSEN:

S. 2645. A bill to authorize the distribution of certain funds on deposit in the Treasury of the United States to the credit of the Arapahoe Tribe of the Wind River Reservation; to the Committee on Interior and Insular Affairs.

(See the statement of Mr. HANSEN when he introduced the above bill, which appears under a separate heading.)

By Mr. HOLLAND:

S. 2646. A bill to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in certain lands located in the State of Florida to the record owners of such lands; to the Committee on Interior and Insular Affairs.

By Mr. JACKSON:

S. 2647. A bill to provide for the termination of Federal services to members of the Miami Tribe of Oklahoma, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BURDICK (for himself, Mr. ALLOTT, Mr. BIBLE, Mr. BROOKE, Mr. CANNON, Mr. CHURCH, Mr. FULBRIGHT, Mr. GRUENING, Mr. HARTKE, Mr. HILL, Mr. HOLLAND, Mr. HOLLINGS, Mr. INOUYE, Mr. LAUSCHE, Mr. LONG of Missouri, Mr. MAGNUSON, Mr. MCCARTHY, Mr. MCGEE, Mr. METCALF, Mr. MONDALE, Mr. NELSON, Mr. PELL, Mr. PROXMIRE, Mrs. SMITH, Mr. THURMOND, Mr. YARBOROUGH, Mr. YOUNG of North Dakota, and Mr. FANNIN):

S. 2648. A bill to amend subchapter III of chapter 19 of title 38, United States Code, in order to authorize the Administrator of Veterans' Affairs to pay the total cost of a member's servicemen's group life insurance during any period that such member is serving in a combat zone; to the Committee on Finance.

(See the remarks of Mr. BURDICK when he introduced the above bill, which appear under a separate heading.)

By Mr. FANNIN:

S. 2649. A bill to provide for the free entry of one mass spectrometer for the use of Arizona State University; to the Committee on Finance.

By Mr. MAGNUSON (for himself, Mr. BARTLETT and Mr. BREWSTER):

S. 2650. A bill to amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program; to the Committee on Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bill, which appear under a separate heading.)

EASTERN DISTRICT COURT AT BROOKLYN AND MINEOLA

Mr. KENNEDY of New York. Mr. President, I introduce, for appropriate reference, a bill to meet the growing demand of Long Island residents for adequate access to our Federal court system.

Few communities in the Nation have grown as swiftly as Long Island. Since 1950, the population of Long Island has grown from 950,000 to 2.3 million—an increase of more than 150 percent. Whole towns and cities have been created—and with them, the inevitable growth of litigation.

Yet, at present, the residents of this 100-mile-long island have no reasonable access to Federal courts. Their district—the eastern district of New York State—is centered in Brooklyn. This center made sense when Long Island was a sparsely populated locale. But now, Long Island is a large population center. It requires closer proximity to the Federal court system.

This bill—sponsored in the House by Congressman TENZER—would permit court for the eastern district to be held at Mineola, Long Island, as well as in Brooklyn. Located in the middle of Nassau County—the center of the island's population growth—a court site at Mineola will make Federal courts more readily available to the island's residents.

This bill has the support of the Judicial Conference of the United States, local bar associations, civic groups, and public officials. And Eugene Nickerson, county executive of Nassau County, has offered the Federal Government rent-free court space in county buildings—an offer which will lower the costs of the bill considerably.

Only 2 days ago, this bill was approved by the House Judiciary Subcommittee; and I am confident that the full committee will give this bill its speedy approval.

It may well be that as Long Island continues to grow in population, further court sites will be needed. But this bill marks an important first step.

In my judgment, this is a sensible, workable proposal to remedy a serious shortcoming in the structure of the eastern district. I urge its swift passage.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2643) to provide that the U.S. District Court for the Eastern District of New York shall be held at Brooklyn, N.Y., and Mineola, N.Y., introduced by Mr. KENNEDY of New York, was received, read twice by its title, and referred to the Committee on the Judiciary.

PER CAPITA PAYMENT FOR WYOMING'S ARAPAHOE INDIANS

Mr. HANSEN. Mr. President, I introduce, for appropriate reference, a bill aimed at relieving the financial strain on Wyoming's Arapahoe Indians by providing a $100 lump sum per capita payment from their own moneys held by the Federal Government.

This proposed bill would authorize a payment to each enrolled Arapahoe, and

would be taken from their funds, derived largely from reservation oil resources, which are held for the tribe by the Treasury of the United States.

The money belongs to the Arapahoes in the first place, and this proposed legislation is necessary for the payment because of a 1958 law which directs that 85 percent of the tribal funds shall be paid per capita. The one-time, $100 per capita would be paid out of the 15-percent reserve fund, and this proposed legislation is needed to make the payment from the money held in reserve.

I realize this bill is a stopgap measure and is limited in scope. However, much-needed attention will be given to the very serious problems in employment, education, health, and social, economic, and industrial development by congressional committees. I am cognizant of the fact that this means of meeting a poverty problem is not all encompassing or long range, and that the effects, and not the causes, are being fought.

Preliminary inquiries have pointed out that there is a lack of coordination and long-range planning on the part of Federal agencies and State and local leaders in meeting the problems of ever-diminishing natural resources of the Wind River Reservation Indians.

While the immediate needs of the Indian people cannot be ignored, neither can we ignore the need for a meaningful, coordinated effort, by all concerned, in planning for effective use of the talents and resources of the reservation.

This proposed legislation will bridge the gap between today's need and tomorrow's broadened opportunity.

Mr. President, I ask unanimous consent that supplemental material from the Arapahoe Tribe and the tribe's general legal counsel be printed in the RECORD following my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the supplemental material will be printed in the RECORD.

The bill (S. 2645) to authorize the distribution of certain funds on deposit in the Treasury of the United States to the credit of the Arapahoe Tribe of the Wind River Reservation, introduced by Mr. HANSEN, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

The supplemental material presented by Mr. HANSEN is as follows:

SHOSHONE & ARAPAHOE TRIBES,
Fort Washakie, Wyo., May 1, 1967.

Senator CLIFFORD P. HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: Economic conditions on the Wind River Reservation have declined steadily over the past few years. They have now reached a serious, if not crisis low. There are few jobs and many applicants. Credit and money are tight and the daily costs of living rise rapidly and constantly, while income declines. To compound matters there has been a reduction in the monthly per capita. Last year the members of the Arapahoe Tribe received a monthly per capita of $49; this year the payment was reduced to $43. While to some this might appear to be an insubstantial decrease, to the members of the Arapahoe Tribe it is of the most significant importance, representing to many approximately 14% of their monthly income.

In many instances the members of the Tribe are living below the minimum level of subsistence, with no prospect of improvement in the near or far future. The situation is a vicious circle for it is one in which tribal members are degraded because of their reduced living, then lose their dignity as human beings, and with it their pride and their hope in the future. The result is that they finally are unable to better themselves. Only by immediate and effective action can this circle be broken. In this case the action needed requires the use of funds, which should be made available to the Arapahoe members immediately, thus permitting them to pay past obligations, to meet current basic living needs and to plan for the future with some relief from the daily pressures of minimum subsistence living.

Recognizing this as the only solution, the Arapahoe Business Council at the direction of the Arapahoe General Council adopted Resolution No. 1656. A copy is enclosed for your consideration. By it, the Arapahoe Tribe seeks an expenditure on a per capita basis of $388,800. This money would be paid over the next twelve months at $12 per individual.

As of February 17, 1967, there was $1,695,426 in what is known as the "Arapahoe 15% Fund". This fund, as you know, is accumulated from mainly oil and gas royalties and held as a reserve to meet administrative needs and emergencies. In addition to that amount, the Tribe had $575,072.73 in outstanding loans, $117,490.27 in depository accounts marked for loans, and an additional $250,000 in the Treasury, for a total of $942,563. The total of these credits and the amount in the 15% fund as of that date was $2,637,989. Resolution No. 1656 requested an expenditure of only $388,800. This is a small amount to take from the reserve fund, a fund set up to meet such emergencies as are now faced by the individual members of the Tribe.

The Resolution requesting this expenditure was disapproved by the Area Director. We have taken an appeal to the Commissioner of Indian Affairs, and the matter is now pending before him.

We solicit your aid in whatever way possible to see that the Commissioner takes favorable action on our appeal. To give you a complete background we are enclosing a copy of the appeal filed on our behalf by our attorneys. If you have any questions or want any additional information, please call on our attorneys or on us and we will respond immediately.

Sincerely yours,
ARAPAHOE BUSINESS COUNCIL,
By JESSE MILLER,
Chairman.

RESOLUTION 1656

(Resolution of the business council of the Arapahoe Tribe, Wind River Reservation, to aid the health, education, and welfare of the members of the Arapahoe Tribe)

Whereas, it is the duty and obligation of the Business Council of the Arapahoe Tribe to take such steps as it considers necessary to provide for the health, education and welfare of the members of the Arapahoe Tribe; and

Whereas, economic and employment conditions have reached a serious low on the Wind River Reservation, with the result that the average Arapahoe family is surviving on an income well below that considered minimum subsistence; and

Whereas, the immediate prospects for any betterment of the situation are discouraging and the members of the Arapahoe Tribe are caught in a vise of current needs and past obligations incurred to meet the current needs; and

Whereas, Section 613 of Title 25, U.S. Code, recognizes the obligation and authority of the Arapahoe Business Council to utilize available funds deposited in the Treasury of the United States to the credit of the Arapahoe Tribe and referred to as the "15% fund" and provides:

"Notwithstanding any other provision of existing law, the trust funds credited to the . . . Arapahoe Tribe . . . . . under the provisions of Section 611–613 of this title shall be available for expenditure or for advance to the tribes for such purposes as may be requested by the Council of the tribe concerned and approved by the Secretary of the Interior, or such official as may be designated by him . . . ."; and

Whereas, there is presently on deposit in the 15% fund approximately $1,695,462, which amount is drawing interest from the United States at the rate of 4% per annum and which amount is well in excess of the proposed budget for fiscal 1968, which at this time it is estimated will not exceed $330,000.00; and

Whereas, the Arapahoe Tribe has approximately $250,000.00 in the Treasury of the United States available for the tribal loan fund and approximately $120,000 in the local depository for the same purpose, for a total of approximately $370,000.00, plus funds in transit, so that the amount of the 15% fund totals approximately $2,000,000.00;

Now, therefore, be it resolved that the Business Council of the Arapahoe Tribe of the Wind River Reservation hereby requests, pursuant to Section 613 of Title 25, United States Code, in order to alleviate the dire and pressing economic needs of the members of the Arapahoe Tribe, that the Secretary of the Interior or his authorized representative make available for expenditure from tribal funds on deposit in the Treasury of the United States to the credit of the Arapahoe Tribe and referred to as the "15% fund", the amount of $388,800.00, said funds to be distributed equally to each member of the Arapahoe Tribe on a pro-rata basis of $12.00 per month for the twelve months following approval of this resolution by the Secretary of the Interior or his authorized representative.

Done and dated this 5th day of March, 1967, at Fort Washakie, Wyoming, by a vote of five (5) for and none (0) against, Chairman not voting. Chairman authorized to sign in the name of the Tribe.

JESSE MILLER,
Chairman,
Arapahoe Business Council.

Attest:

PHILLIPPENA DENNY,
General Supervisor,
Shoshone & Arapahoe Tribal Office.

WILKINSON, CRAGUN & BARKER,
Washington, D.C., April 4, 1967

Re: Appeal from area director's letter-decision of March 24, 1967, disapproving Arapahoe Business Council Resolution 1656.

Mr. JAMES F. CANAN,
Area Director,
Bureau of Indian Affairs,
Billings, Mont.

DEAR MR. CANAN: On behalf of the Arapahoe Tribe of the Wind River Reservation acting through the Arapahoe Business Council, we hereby appeal to the Commissioner of Indian Affairs from your letter-decision of March 24, 1967, disapproving Resolution 1656, adopted by the Arapahoe Business Council on March 5, 1967, and transmitted to your office by the Superintendent on March 13, 1967. This appeal is filed pursuant to Part II of Title 25 of the Code of Federal Regulations.

Section 613 of Title 25, United States Code, recognizes the obligation and authority of the Arapahoe Business Council to utilize available funds deposited in the Treasury of the United States to the credit of the Arapahoe Tribe, referred to as the "15% fund", and provides:

"Notwithstanding any other provision of existing law, the trust funds credited to the . . . Arapahoe Tribe . . . under the provisions of sections 611–613 of this title shall be available for expenditure or for advance to the . . . [tribe] . . . for such purposes as may be requested by the business council of the tribe concerned and approved by the Secretary of the Interior or such official as may be designated by him: . . . "

The Arapahoe Business Council adopted Resolution 1956 subsequent to a meeting of the Arapahoe General Council held on March 4, 1967. The action of the Arapahoe General Council came after full discussion of the pressing economic needs facing the individual members of the Arapahoe Tribe. Participating in this discussion were members of the Arapahoe Business Council as well as Mr. Baenen and the undersigned of this firm, general counsel for the Arapahoe Tribe.

You base your action in disapproving Resolution No. 1656 on the ground that "dipping into the 15% fund provides . . . [no] solution to the financial problems of the Arapahoe people", and that this "was certainly not the intent of the 1958 Act which generally provided that 85% of the money would be distributed in per-capita payments and 15% would be held for other purposes."

Further, apparently you feel the financial problems of the Arapahoe people can be alleviated by the use of a portion of the 15% fund for economic development, which, in turn, would offer additional employment opportunities to the members of the Tribe and increase tribal income.

Because of the reduction in the Arapahoe per-capita payments from $49 per month to $43 per month, plus the rising cost of living and the tight money and labor market on the Wind River Reservation, the individual members of the Arapahoe Tribe are faced with serious economic problems. These problems exist on a recurring daily basis and must be alleviated by whatever program and funds are available. Certainly, the Business Council and the Tribe are interested in economic development in order to provide a solid base of employment and income to the Tribe and its members. However, such development is a long-term venture and uncertain. The daily needs of the Arapahoe people cannot wait to see if an uncertainty occurs. It is obvious the intent of the 1958 Act was neither to preclude the Business Council from requesting expenditure from the 15% fund nor the Secretary or his authorized representative from approving such expenditure when the facts and circumstances warrant the need. Certainly, the need is present today.

As of February 17, 1967, there was $1,695,426 in the 15% fund. In addition, the Tribe had $575,072.73 outstanding in loans, $117,490.27 in depository accounts marked for loans, and an additional $250,000 in the Treasury, a total of $942,563.00. The total of these credits and the amount in the 15% fund is $2,637,989. Resolution No. 1656 requested an expenditure of only $388,800. The expenditure of this amount will in no way jeopardize the reserve-financial position of the Tribe; and such expenditure of this money, which belongs to the Tribe would aid individual members to meet their daily subsistence needs. Hunger and cold and the fear and uncertainty that are part of those living on or below subsistence, are not alleviated by future dreams of economic development. Relief is needed now.

Sincerely yours,

WILKINSON, CRAGUN & BARKER,
By GLEN A. WILKINSON.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C.

WILKINSON, CRAGUN & BARKER,
Attorneys-at-Law,
Washington, D.C.
(Attention: Mr. Glen A. Wilkinson)

GENTLEMEN: Reference is made to your letter of April 4 to Mr. James F. Canan, Area Director, Bureau of Indian Affairs, 316 N. 26th Street, Billings, Montana 59101, appealing from his decision of March 24, 1967, disapproving Arapahoe Business Council Resolution No. 1656.

The Act of August 8, 1958 (72 Stat. 541) does permit the Secretary to increase the monthly payments for a year to exceed 85 per centum of the actual receipts for that year in order to avoid unnecessary hardships. However, said Act further provides that the excess payments be deducted from the receipts of the following or succeeding years before determining the amount of the monthly payments for such succeeding years.

It is estimated that a continuation of the presently authorized $43 monthly payments for the remainder of this calendar year will result in an over-payment of that stipulated in the Act of August 8, 1958, supra, by approximately $100,000, which actually is an invasion of the 15% fund, and will require adjustment in accordance with the law. To increase the present payments by $12 per month will only serve to enlarge the deficit and prolong the adjustment period. We feel that any further encroachment into the 15% fund would be a disservice to the Indians. We do not anticipate any increase in the tribe's income in the immediate future.

Therefore, the action of the Billings Area Director in connection with Arapahoe Business Council Resolution No. 1656 is affirmed.

Sincerely yours,

T. W. TAYLOR,
Deputy Commissioner.

Approved, pursuant to 25 CFR 2.21:

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

SHOSHONE & ARAPAHOE TRIBES,
Fort Washakie, Wyo., May 2, 1967.

Senator CLIFFORD P. HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: Enclosed is a copy of Joint Tribal Resolution No. 1670, in which the Tribes ask your support of increasing to 95% the percentage of trust funds distributed per capita.

Sincerely yours,

LUCILLE MCADAMS,
Tribal Secretary.

RESOLUTION 1670

(Joint resolution, Shoshone and Arapahoe Tribes, Wind River Indian Reservation, Fort Washakie, Wyo.)

Whereas, H.R. 8681 was introduced to increase to 95% the percentage of trust funds distributed per capita, and,

Whereas, it is the desire of the Shoshone and Arapahoe Tribes of the Wind River Reservation, Wyoming, to increase the per capita distribution.

Now, therefore, be it resolved, that the Shoshone and Arapahoe Tribes favor adoption of H.R. 8681 to increase the 95% the percentage of Trust fund distribution.

Be it further resolved, that the Chairman of the Joint Business Council of the Shoshone and Arapahoe Tribes be authorized to sign this resolution.

CERTIFICATION

We, the undersigned, as Chairmen of the Joint Business Council of the Shoshone and Arapahoe Tribes, hereby certify that the Joint Business Council is composed of twelve (12) members, six (6) members of the Shoshone Tribe and six (6) members of the Arapahoe Tribe, of whom 6 members of the Shoshone Tribe, and 6 members of the Arapahoe Tribe, constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held this 26th day of April, 1967; that the foregoing resolution was duly adopted by the affirmative vote of 11 members; Chairman not voting, and that the resolution has not been rescinded or amended in any way.

Done at Fort Washakie, Wyoming, this 26th day of April, 1967.

ROBERT N. HARRIS, SR.,
Chairman,
Shoshone Business Council.

JESSE MILLER,
Chairman,
Arapahoe Business Council.

Attest:

LUCILLE MCADAMS,
Tribal Secretary.

JULY 3, 1967.

Re: Increase in per capita payments—Resolution 1656.

Mr. JESSE MILLER,
Chairman, Arapahoe Business Council,
Arapahoe, Wyo.

DEAR JESSE: Enclosed is a copy of a letter from the Deputy Commissioner affirming the action of Area Director Canan in disapproving Resolution No. 1656, requesting an increase in the per-capita payments by $12.00 per month. The Deputy Commissioner's action was by letter of June 2, 1967, and was approved by the Assistant Secretary of the Interior on June 28, 1967. We received the letter on Friday. Pursuant to 25 CFR 2.21, approval by the Secretary of his authorized representative ends the matter, precluding any further appeal.

The alternates available now for trying to obtain an increase in the per capita payment are the special $100 per capita legislation or legislation reducing the 15% reserve fund by 5–10%. As we reported to you at the Business Council meetings in May, Commissioner Bennett told us he personally favored the $100 per capita legislation as opposed to a reduction in the 15% fund. He said he would recommend to the Department that it support the $100 per capita legislation if introduced; however, a recommendation of support by him may not result in support by the Department.

We will take no action on this until we receive directions from the Business Council.

Sincerely yours,

WILKINSON, CRAGUN & BARKER,
By GLEN A. WILKINSON.

JUNE 6, 1967.

ARAPAHOE TRIBAL BUSINESS COUNCIL,
Tribal Office,
Fort Washakie, Wyo.

DEAR COUNCIL MEMBERS: I appreciate the opportunity I had recently to attend your council meeting and to listen to your thoughts and opinions concerning your needs and problems, most specifically the increasing of your per capita payments.

As I understand it there are three alternatives:

1. The appeal pending with Commissioner Bennett to increase the per capita payments from $43 to $55, or anywhere in between.

2. A bill to be introduced before Congress for one one-hundred dollar per capita payment.

3. Legislation increasing per capita payments from 85% to 95% of the funds currently held in reserve.

Please advise me of your decision regarding your choice of action and I will be happy to assist you in any possible way.

In addition, I understand the matter of placing the 15% reserve of tribal funds into private investments, rather than in the U.S. Treasury where it is currently earning 4% interest, came up at the general business council meeting. What are your views in this regard?

Again, my thanks for your hospitality during my visit to the reservation.

Sincerely,

CLIFFORD P. HANSEN,
U.S. Senator.

WILKINSON, CRAGUN & BARKER,
Washington, D.C., August 24, 1967.

Re: Arapahoe Tribe—per capita payments.

Hon. CLIFFORD P. HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: Miss Portwood has called to indicate your interest in doing what you can, consistent with prudent use of Arapahoe funds, in providing some increase in income to members of the Arapahoe Tribe. We appreciate your continuing interest. I shall try in this letter to give you an outline of the current situation.

On March 5, 1967, the Arapahoe Business Council, acting pursuant to instructions from the Arapahoe General Council, adopted a resolution requesting that the Secretary of the Interior or his authorized representative make available for expenditure from tribal funds (the 15% fund) the amount of $388,800, "said funds to be distributed equally to each member of the Arapahoe Tribe on a pro rata basis of $12 per month for the twelve months following approval" of the request. This request was disapproved by Area Director James F. Canan on March 24, 1967. Pursuant to instructions from the tribe, we appealed the Area Director's determination to the Commissioner of Indian Affairs on April 4, 1967.

The appeal to the Commissioner of Indian Affairs was accompanied by a request that we be afforded an opportunity to make an oral argument. This request was granted. The Commissioner at that time indicated his view that an increase of $12 per month was not justified considering the current income and prospects for immediate future income, and he also said that he favored an approach whereby a single $100 per capita payment might be made. He emphasized, however, that he was not certain his view on this point would be followed by the Secretary of the Interior. Commissioner Bennett also indicated that he did not favor legislation which would increase the 85% of tribal income now paid in per capita payments to members of the tribe.

Our appeal to the Commissioner of Indian Affairs was denied by the Deputy Commissioner on June 2, 1967. We had hoped that we would have an appeal to the Secretary of the Interior. However, the Deputy Commissioner effectively foreclosed this by having his denial approved by the Secretary of the Interior. This approval was given on June 28, 1967, and was received by us on June 30. A copy of that letter is attached.

We advised the Arapahoe Business Council of this action on July 3, 1967. A copy of our letter to the Arapahoe Business Council is enclosed for your information. We have had no additional instructions from the tribe since July 3. As we understand the tribal position at this time, it has supported the efforts to increase the percentage of income utilized for per capita payments from 85% to 95%, and it has also supported the proposal first conceived over two years ago of a single per capita payment of $100. We believe that these are alternative positions and that the tribe realizes that if it accomplishes one objective, the possibility of accomplishing the other is diminished or eliminated.

In view of the attitude adopted by Commissioner Bennett, we are inclined to urge that you do what you can to obtain favorable action to provide for a single $100 per capita payment. We recommend this in view of the limited time available until Congress adjourns and because we are fully aware that this is the only approach for which you and the Arapahoe Tribe can expect support from the Department of the Interior. We are sending a copy of this letter to the Chairman and Executive Secretary of the Arapahoe Business Council. We ask that they advise you and me promptly if there is any objection to this strategy.

We calculate that the following amounts would be required for the alternative proposals:

$12 per month increase for 12 months	$388,800
Single $100 per capita payment	270,000

The above figures are based on total enrollment of 2,700.

As of February 17, 1967, there was a total of $1,695,462 in the Arapahoe 15% fund. A total of $942,563 is involved in the Arapahoe Credit Program. $36,825 was allocated for land purchases. Later information has been requested from BIA but is not yet available.

Respectfully yours,

WILKINSON, CRAGUN & BARKER,
By GLEN A. WILKINSON.

P.S.—The Bureau of Indian Affairs has just advised that the amount in the Arapahoe 15% fund is $1,687,712.84.

G. A. W.

WILKINSON, CRAGUN & BARKER,
Washington, D.C., October 2, 1967.

Re: $100 per capita legislation.

Hon. CLIFFORD P. HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: This will refer to the talks we have had with Miss Portwood of your office respecting introduction of a bill to provide a $100 per capita distribution to members of the Arapahoe Tribe.

You and Miss Portwood have pointed out that you have nothing in writing from the Arapahoe Tribe to indicate that it wishes you to proceed to try to obtain favorable action on a $100 per capita bill. We have advised you that we likewise have nothing in writing from the Arapahoe Business Council, but Mr. Baenen of our office talked with Mrs. McAdams, tribal secretary, some weeks ago. She, in turn, consulted with the Arapahoe Business Council and advised us by telephone that it assumed you would proceed in this direction and requested specifically that you do so.

As you will note, a copy of this letter is going to all members of the Arapahoe Business Council. They should have an opportunity to consider it carefully within the next two or three days. We request, if satisfactory to you, that you introduce the bill so that the legislative process may begin. As indicated above, we understand this is the desire of the Arapahoe Business Council. If we should be mistaken, we will be so advised late this week and you could then refrain from taking the future steps necessary to get favorable action on the bill.

Again, we thank you for your interest in Arapahoe tribal matters.

Respectfully yours,

WILKINSON, CRAGUN & BARKER,
By GLEN A. WILKINSON.

SERVICEMEN'S GROUP LIFE INSURANCE

Mr. BURDICK. Mr. President, I introduce, for appropriate reference, a bill dealing with servicemen's group life insurance.

A little over 2 years ago the servicemen's group life insurance program was enacted. It automatically provided, commencing September 29, 1965, up to $10,000 life insurance to all members of the Armed Forces. Under the program, the serviceman could elect a lower amount of $5,000 coverage or choose not to be insured at all. The premiums for this insurance, including administrative costs, are deducted on a monthly basis from the servicemen's pay. Presently, over 3½ million policies are in force providing essential insurance protection to servicemen with the total amount of group insurance reaching the unprecedented figure of $36 billion.

I am pleased that the genesis of our present group insurance program resulted from a Senate proposal, S. 2127. However, S. 2127, in contrast to a premium deduction plan, would have provided free insurance for those serving in a combat zone after January 1, 1962. In line with this Senate objective and as part of the bill as ultimately enacted, a $5,000 death gratuity was provided for widows, children, or parents of servicemen who died in combat prior to September 29, 1965, which is the date the servicemen's life insurance program commenced.

Previously, during the Korean conflict, a similar need for insurance coverage and protection for our servicemen in combat areas had arisen. In recognition of this need, the Congress responded by providing the servicemen's indemnity program. Under its provisions, $10,000 was payable for the death of a serviceman killed in service, including combat. This protection was provided on a gratuitous basis—no charge was imposed upon our fighting men in Korea.

Mr. President, just recently we recognized, for veteran purposes, that our Vietnam servicemen are engaged in a struggle no less hazardous than those who valiantly fought in the Korean conflict, as well as those who were engaged in prior world wars. Through passage of S. 16, now Public Law 90–77, we provided these brave men with wartime benefits they deserve. But I do not believe that we have gone far enough. In my opinion, the initial purpose of S. 2127 was the correct one; namely, that we should provide free life insurance to servicemen who face the dangers of combat anywhere in the world. This is certainly true of the hot war in Vietnam today; and our servicemen need this vital protection for their loved ones.

While it is recognized that the percentage of servicemen insured under the group program is exteremly high and that a great many men in Vietnam have this protection, unless there is 100-percent participation afforded without charge to every serviceman on Vietnamese soil, the program falls short of its mark. Every GI risks the full danger of life and limb, whether billeted in Saigon or bunkered in Con Thien.

We should not impose a premium on their protection when they are risking their very lives for our protection.

Therefore, to eliminate this imposition and fill the gap left in full wartime benefits for Vietnam servicemen, I am introducing a bill which would amend the servicemen's group life insurance program to provide that henceforth servicemen serving in an area designated by the President as a combat zone would not be required to pay premiums for any insurance coverage under the group program. The total cost of insurance during

the period would be borne by the Government. For a little more than $10 million, we can guarantee that any soldier facing combat duty who might have been reluctant to join the program for financial reasons would not have to refuse this vital protection because he lacked the funds.

Further, for those who have either refused this coverage before, or elected the lesser coverage of $5,000 and who may be transferred to Vietnam, it is my understanding that they are presently allowed to reapply for insurance or maximum coverage provided that they are in good health. I would presume that the fact that they receive orders for Vietnam would indicate they are in good health and be reinsured without question. Thus, they would qualify for the indemnity coverage which my bill provides.

Mr. President, by providing free life insurance to those serving in a combat zone, we will keep faith with our fighting GI's in Vietnam, for we will be authorizing insurance protection for this group along the same lines as was afforded those servicemen who served during the Korean conflict. Our Government and our people can do no less for those who are engaged in mortal combat on behalf of the free world.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2648) to amend subchapter III of chapter 19 of title 38, United States Code, in order to authorize the Administrator of Veterans' Affairs to pay the total cost of a member's servicemen's group life insurance during any period that such member is serving a combat zone, introduced by Mr. BURDICK (for himself and other Senators), was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 2648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 769(a) of title 38, United States Code, is amended by striking out "During" and inserting in lieu thereof "Except as provided in subsection (e) of this section, during".

(b) Section 769 of such title is further amended by adding at the end thereof a new subsection as follows:

"(e) No deduction for the payment of the cost of insurance purchased by the Administrator under section 766 of this title for any member shall be deducted from the pay of such member for any month or portion of any month in which such member performs service in a combat zone. The total cost of such insurance during any such period shall be borne by the Administrator. As used in this subsection, the term 'combat zone' means any area designated by the President by Executive Order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1954."

SEC. 2. The amendments made by the first section of this Act shall be effective in the case of any member of the uniformed services who serves in a combat zone on or after the first day of the first calendar month which begins after the date of enactment of this Act.

A NEW MERCHANT MARINE PROGRAM

Mr. MAGNUSON. Mr. President, on behalf of myself, the Senator from Alaska [Mr. BARTLETT], and the Senator from Maryland [Mr. BREWSTER], I introduce, for appropriate reference, a bill to amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program.

This bill—which is the result of many months of careful deliberation—is proposed as an essential prerequisite to revitalizing the American merchant marine. During my years in Congress I have introduced many bills which I believe essential and important to the future of this Nation. But I cannot recall introducing legislation which was so vitally needed to correct a situation so greatly deteriorated.

It is true that there are many issues of grave importance facing the Congress; none, however, is more urgent or more demanding of immediate constructive action than the crisis presented by the present state of our merchant marine. This crisis presents not only a grave danger, but an immediate threat to the well-being of every citizen of the United States.

Without an adequate merchant marine the United States cannot possibly have an adequate defense. Without an adequate merchant marine the United States cannot possibly realize its full potential in foreign trade.

There is no dispute that our merchant marine is woefully inadequate. We are now carrying—and this is a startling figure—under 8 percent of our foreign waterborne trade. The United States has dropped to 16th in the world's shipbuilding statistics. While the world fleet increased by 61 percent in the last 15 years, America's privately owned fleet has decreased by 24.5 percent.

Today only some 871 merchant ships are under the U.S. flag. Approximately only 100 of these vessels can be considered modern or can sustain speeds of 20 knots or more. Have we forgotten that in the first 180 days after the United States entered World War II there were 519 ships sunk by enemy submarines?

We have 1,190 World War II vessels listed on paper as being in our National Defense Reserve Fleet. However, in fact we have only about 200 cargo vessels left in the Reserve Fleet. These same Reserve Fleet ships were described by former Secretary of Defense James Forrestal in 1947 as "makeshift jobs, using practically any kind of propulsion power."

We have had to activate 170 of these old tubs to carry supplies to Vietnam at a cost of approximately $500,000 per vessel. By 1975 most of the ships in the National Defense Reserve Fleet will be 30 to 35 years old, clearly obsolete and in most cases practically useless.

Further, our nonsubsidized tramp fleet cannot replace its World War II built vessels at a cost that makes replacement feasible. As such, 10 years from now we may no longer have a tramp fleet operating even though 70 percent of its total general cargo capacity is presently in Government service carrying supplies to Vietnam.

This is the sad and dangerous position of our merchant marine, at a time when the necessity of a strong fleet is made shockingly clear by the fact that 98 percent of the supplies going to Vietnam is carried by merchant vessels.

Our Vietnam experience is absolute and indisputable proof that the requirement for a strong and modern merchant marine is as valid today as when President Franklin D. Roosevelt stated:

> War has proved to the American people that a strong Merchant Marine is as necessary to the nation as a powerful Army and Navy.

Our national policy is one advocating a strong and adequate merchant marine. Congress, of course, expressed that policy clearly in the Shipping Act of 1916, the Merchant Marine Act of 1920, and the Merchant Marine Act of 1936. Why then, with such clear expressions of policy is our merchant marine on the brink of disaster?

I would suggest that the obvious reason is that a strong merchant marine policy—or any policy—is only effective if it is followed by thoughtful planning, necessary financing, and full implementation.

We must plan, finance, and implement our merchant marine policy immediately—while we still have a merchant fleet. We must be prepared to pay for what we want.

Two years ago President Johnson promised the Nation a new maritime program. The Nation is still waiting, but we in Congress can afford to wait no longer. We must have a meaningful revitalization program enacted into law by this 90th Congress.

As you know, the Subcommittee on Merchant Marine and Fisheries of the Senate Commerce Committee, under the able chairmanship of the Senator from Alaska [Mr. BARTLETT], undertook an extensive probe of our maritime needs and policies, beginning in early April of this year and continuing thereafter for some 5 months.

The record compiled presents a clear indictment of the sufficiency of our present Government policies with respect to the merchant marine, and presents a compelling case for immediate action to do what is necessary to assure the United States an adequate and efficient merchant marine.

During the course of our hearings, Secretary of Transportation Alan Boyd advanced his proposals for a new maritime program. Some of his ideas were quite good, but others were not completely persuasive. All of industry and labor then testified and some supported the Secretary of Transportation's proposals, and others did not.

At the conclusion of the Commerce Committee's lengthy hearings on the needs of our merchant marine, there was a complete impasse. The industry was split right down the middle on the issue of whether to allow any foreign building of American-flag vessels without loss of trading privileges.

As you will recall, Secretary Boyd, acting for the administration in the effort to develop a maritime policy, had been advocating strenuously that there must

be some level of foreign building. A few weeks ago it became apparent that no one was moving on either side to break the impasse.

That was not good. So I and Senator BARTLETT, with Congressman GARMATZ, chairman of the House Merchant Marine Committee, and Congressman DOWNING, a member of that committee, put our heads together in a series of closed-door meetings and hammered out, word by word and section by section what we thought would be a good merchant marine program. Once we had our program worked out, we had a long talk with the President of the United States. We told him that we believed it essential that we have a new merchant marine program and that Congress was prepared to act on its own to develop and devise such a program if the administration effort continued to be bogged down in an impasse with the industry. As a result of that meeting, the Secretary of Transportation, Mr. Boyd, on behalf of the President, joined Senator BARTLETT, Congressman GARMATZ, Congressman DOWNING, and myself in another series of meetings. I am happy to say that there is a general agreement between all involved in this effort as to most of the provisions of this new program.

This program involves basic changes in the structure of Government support to the merchant marine. There are some revolutionary features in it, and there is the enhancement of those things which have worked well in the past and should be strengthened. I do not believe that the foreign building issue will continue as a matter of concern now that the bill is introduced. I believe we have resolved that issue in a manner that will allow industry to go forward and commit capital without fear of unfair competition from those with low-cost foreign vessels.

This bill makes no change in the present law so far as the legal restrictions which now inhibit the building of foreign vessels for registry under U.S. flag. The reason for this is quite simple: It is our view that American-flag vessels should be built in American shipyards by American shipyard workers and be manned on the seas by American crewmen.

Mr. President, this program would authorize appropriations for each of the fiscal years 1969 through 1973, in the amount of $300 million per year for construction differential subsidy, cost of national defense features, and acquisition of used ships, and $25 million per year for research and development. It would also authorize appropriations for fiscal year 1969 of $30 million for reconstruction of the reserve fleet.

It is our feeling that any effective revitalization program must involve at least a minimum 5-year effort, and that is the reason for the 5-year authorization of funds. Ship construction will be greatly increased—more than doubled from the present situation. We should be able to build 35 to 40 ships a year, with subsidy, depending upon the mix or type of vessels constructed.

There will be a broadening of eligibility for construction subsidy. Our construction subsidy system has worked well. The subsidized liner trade, as you know, carries approximately 30 percent of our water-borne exports and imports now carried by liner service. We are going to expand and increase the application of construction subsidy beyond the liner field. It is the tramp operators that so desperately need help. This is a segment of the industry that has grown fantastically since enactment of the 1936 Merchant Marine Act, but without help it may disappear within the next 10 years. This program would provide construction subsidy for tramp operators in the oceangoing trade, as well as to additional liner operators.

Operating subsidy funds will be increased, and we propose to expand as well the eligibility for this type of subsidy. This bill would authorize 5-year experimental operating subsidy contracts with presently unsubsidized operators of liner vessels and new dry bulk vessels, which should greatly enhance our ability to compete upon the high seas.

Among the provisions of this bill is a section which would authorize aid in the development and construction of nuclear-powered ships. It is vital that we build nuclear-powered merchant vessels. Under the bill subsidy could be given in an amount that would give the operator a nuclear ship at the price of constructing a comparable conventional ship.

We have as well in this bill made substantial changes in the procedures whereby applications are made for construction differential subsidy. Privately owned shipyards, as well as proposed shipowners, would be eligible applicants for construction differential subsidy. Further, construction differential subsidy would no longer be computed on an individual ship basis, but be determined at least once a year for each type of vessel with a ceiling of 55-percent differential in effect for 3 years.

We have also made provision for an extension of the tax deferred capital reserve fund program presently in effect for the subsidized operators to all U.S.-flag operators in the foreign and domestic trades, and operators of fishing vessels as well.

If tax deferred funds may be accumulated but spent only for the purpose of building new vessels, there is an increased incentive to invest capital in new vessels. The availability of such reserve funds will as well tend to decrease the requirements for construction subsidy funds. The Government will not lose money as the depreciation basis of the new vessel is decreased by the amount of tax deferred funds used. There is merely a deferment of taxpayment rather than a loss of taxpayment.

We have spent a good deal of time this year considering the specific problems of the Great Lakes area which, as you know, has very unique transportation problems. So far as the overseas service out of the Great Lakes, something must be done to assure that there is a greater possibility of U.S.-flag ships. You can count on the fingers of my two hands the number of U.S.-flag, oceangoing sailings through the Great Lakes last year. When any one coastal area of the United States becomes that depressed, so far as the ability to attract U.S.-flag, oceangoing trade, then there is something wrong with our development of economic potential. The establishment of tax deferred reserve funds for the purpose of replacing our overage vessels will be of great assistance to the Great Lakes operators as well as to others who will greatly benefit from this change in the law.

I have not fully discussed all the provisions of this proposed new maritime program, but I ask unanimous consent to insert in the RECORD following my remarks a section-by-section analysis of the bill and a comparative text showing the changes in existing law that would be made by this proposed legislation. The bill is lengthy and deals with a variety of matters essential to the health of our merchant marine.

I wish to make one factor, however, absolutely clear. There is no question but that in the vast demands upon the budget dollar there is a keen competition for funds. We are engaged in a conflict in Vietnam which has great repercussions upon Federal expenditures. It is my firm conviction that allocation of funds for the revitalization of the U.S. merchant marine should be of great priority.

It is essential that we solve the problems of our merchant marine. It is vital to the security of the United States, to the economic health of the industry involved, and to the many millions of people throughout the world whose futures, hopes and aspirations are so closely tied to ours—for it is the merchant marine that carries America to them. If we wish to enhance our ability to communicate to the rest of the world the wonderous productivity and superiority of democratic processes, and assure our sovereignty upon the seas, then we must assure this Nation an adequate and efficient merchant marine.

The bill just introduced is, in my opinion, essential legislation. We must fight the battle for necessary appropriations after we have passed this legislation, but surely we cannot at this time neglect to enact these necessary substantive changes which are essential to the future of our merchant fleet.

This bill is the result of many weeks of arduous study and deliberation. We believe it is a sound, realistic and workable program. There may well be changes made before the bill returns to the floor of the Senate, but at the outset we believe it is a sound and effective program in its present form.

In view of the lengthy hearings already held this year by the Subcommittee on Merchant Marine and Fisheries, which explored in depth the needs of our merchant fleet, we anticipate no need for lengthy hearings on this matter. We shall try to move as rapidly as we can while still allowing all concerned to express their views and to make appropriate suggestions.

This bill says not a word about the location of the Maritime Administration within the various departments of Government. That matter is being considered as a separate legislative proposal. I believe that regardless of where the Maritime Administration is located—be it in

the Department of Commerce, the Department of Transportation, or established as an independent agency—the most important thing to the merchant marine and this Nation is a realistic and workable program that will allow more ships to be built and operated under the U.S. flag.

In recent years there have been several proposals advanced as suggested maritime programs. Although the provisions of the various programs advanced have differed, they have had one important factor in common: that is each proposal has resulted in bitter splits and divisions within the maritime industry.

Mr. President, I believe this program is one which every segment of the maritime industry—management and labor alike—can support. Surely there must be a realization that the desperate necessity for revitalizing our fleet provides sufficient common ground upon which we can move forward to regain our rightful place upon the seas. We would like the unified support of maritime interests in enacting this revitalization program. We are bound and determined to enact a program with or without that support. The condition of our fleet leaves no alternative.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the section-by-section analysis and comparative text will be printed in the RECORD.

The bill (S. 2650) to amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program, introduced by Mr. MAGNUSON (for himself and other Senators) was received, read twice by its title, and referred to the Committee on Commerce.

The section-by-section analysis and comparative text, presented by Mr. MAGNUSON, are as follows:

SECTION-BY SECTION ANALYSIS OF THE BILL "TO AMEND THE MERCHANT MARINE ACT, 1936, AND OTHER STATUTES TO PROVIDE A NEW MARITIME PROGRAM"

Section 1 would amend section 209(b) of the Merchant Marine Act, 1936, to authorize appropriations for each of the fiscal years 1969 through 1973 in the amount of $300,000,000 per year for construction-differential subsidy, cost of national defense features and acquisition of used ships, and $25,000,000 per year for research and development. It would also authorize appropriations for the fiscal year 1969 in the amount of $30,000,000 to reconstruct the reserve fleet.

Section 2 would amend section 211 to add contract vessels to the category of vessels for which the Secretary is to determine requirements, and to add contract operations to the category of operations for which the Secretary is to determine the relative costs of operating U.S. vessels and vessels of foreign countries operating in competition with them.

Section 3 would amend section 501(a) of the Act to include privately-owned shipyards as eligible applicants for construction-differential subsidy, while retaining the proposed shipowners as eligible applicants.

Section 4 would substitute the words "proposed shipowner" for applicant in section 502(a). This is necessary because the provisions of this section are not intended to be applicable to a shipyard applicant. Where the shipyard is the applicant the procedures of section 504, as amended by the draft bill, would be utilized.

Section 5 would amend section 502(a) by providing a new method for determining construction-differential subsidy. Under present law, the subsidy paid is the excess of the lowest responsible bid for a particular vessel over the estimate of the foreign cost of building that vessel, up to a ceiling of 55 percent. The amendment would discontinue computing subsidy on an individual ship basis. Instead, subsidy rates for each type of vessel would be developed by estimating for each type the domestic and foreign construction costs. The rate for each type of vessel would be periodically redetermined but not more frequently than once each year. The ceiling of 55 percent would remain in effect for three years. Under present law this rate would revert to 50 percent on July 1, 1968.

Section 6 would amend section 504 by designating the present text as subsection (a), by limiting its applicability to the situation where the proposed shipowner is the applicant for construction-differential subsidy, and by authorizing the shipowner to negotiate a price with the shipyard as an alternative to competitive bidding. The section is also amended by adding a new subsection under which the shipyard could be the applicant for subsidy based either on competitive bidding or negotiated pricing.

Section 7 would amend the definition of "obsolete vessel" in section 510 so as to eliminate the requirement for a finding that the vessel, in the judgment of the Secretary, is obsolete or inadequate for successful operation in foreign or domestic trade, and to substitute a requirement for a finding that the vessel should be replaced in the public interest. This would conform the required finding under this section to that required under section 605(b) to permit payment of operating subsidy for operation of a vessel that is beyond its statutory age. This amendment avoids the situation of finding under one section that a vessel of a given type and age is obsolete or inadequate for successful operation and finding under another section that it is to the public interest to subsidize another vessel of that type and age.

Section 8 would make applicable to the new title XIII (Experimental Operating Subsidy) the provisions of section 801 which permit the Secretary to prescribe the method to be used by the operator in keeping books and records.

Section 9 would make applicable to the new title XIII of the provisions of section 804 which prohibit operators who receive operating subsidy, and their affiliates, from owning, chartering, acting as broker or agent for, or operating any foreign flag ship which competes with an American flag ship on an essential trade route, without the permission of the Secretary.

Section 10 would apply to title XIII the provisions of 805(a) which prohibit payment of operating subsidy to any contractor if such contractor or an affiliate owns or operates any vessel engaged in the coastwise or intercoastal trade without the consent of the Secretary. Section 12 would also amend section 805 by repealing subsection (c) which limits to $25,000 the amount of any one person's salary which will be taken into account for subsidy accounting purposes.

Section 11 would release existing operators from the provisions of their contracts inserted pursuant to section 805(c).

Section 12 would make applicable to title XIII the provisions of section 810 which prohibit any operator receiving operating subsidy from being a party to any agreement with other carriers which unjustly discriminate against any American flag carrier on an essential trade route.

Section 13 would amend section 905 to apply that section's definition of "citizen of the United States" to title XIII.

Section 14 would provide a new title X which would authorize aid in the development and construction of nuclear powered ships. The most subsidy that could be granted under the title for a ship to be operated in the foreign trade or the non-contiguous domestic trade would be an amount that would give the operator the nuclear ship at the price of constructing a comparable conventional ship. If the ship is to be operated in any other part of the domestic trade, the most subsidy allowable would be an amount that would give the operator the ship at the price of building a comparable conventional ship in the United States.

Section 15 would amend the Atomic Energy Act of 1954 to vest in the Atomic Energy Commission any invention or discovery useful in the production or utilization of atomic energy which is conceived under any contract entered into under the new title X of the Merchant Marine Act, 1936.

Section 16 would amend the Atomic Energy Act of 1954 to authorize the Atomic Energy Commission to grant the same indemnity with respect to nuclear vessels constructed under the new title X of the 1936 Act as it can grant with respect to the SAVANNAH.

Section 17 would amend section 607(b) of the Merchant Marine Act to permit capital reserve funds to be used in the purchase of new nuclear fuel cores.

Section 18 would amend section 1104(a)(5) of the Act to remove the six percent limit on loans that can be insured under title XI and to substitute therefor a limit on interest at a rate determined by the Secretary of Commerce to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Department.

Section 19 would amend section 1106(2) of the Act to allow refinancing of insured mortgages so as to include new nuclear fuel cores.

Section 20 would create a new title XIII in the Act which would authorize five-year experimental operating subsidy contracts with operators of liner vessels and with owners of dry bulk vessels built after enactment of the title. The purpose is to explore new subsidy concepts which contain incentives sufficient to reduce unit costs of subsidy in the future.

Section 21 would provide for the establishment of a Commission on American Shipbuilding to study the private shipbuilding industry and to report to the President and Congress within three years as to the extent to which Federal assistance is necessary to preserve the competitive position of the shipbuilding industry and to preserve a national shipbuilding capability.

Section 22 would allow merchant vessel and fishing vessel owners to contract with the Secretary of Commerce and Secretary of the Interior respectively for the establishment of vessel replacement funds. Monies deposited into such funds would be treated as tax deferred but only if used for the purpose of replacing and modernizing vessels.

COMPARATIVE TEXT SHOWING THE CHANGES IN EXISTING LAW THAT WOULD BE MADE BY THE BILL "TO AMEND THE MERCHANT MARINE ACT, 1936, AND OTHER STATUTES TO PROVIDE A NEW MARITIME PROGRAM"

[Deletions are enclosed in black brackets; new material is shown in italic.]

SEC. 20. (a) Except as provided in subsection (b) of this section, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provisions of this Act or any other law, there are authorized to be appropriated after December 31, 1967, for the use of the Maritime Administration for—

(1) acquisition, construction, or reconstruction of vessels;

(2) construction-differential subsidy and cost of national defense features incident to

the construction, reconstruction or reconditioning of ships;

(3) payment of obligations incurred for operating-differential subsidy;

(4) expenses necessary for research and development activities (including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental ship operations);

(5) reserve fleet expenses;

(6) maritime training at the Merchant Marine Academy at Kings Point, New York;

(7) financial assistance to State Marine Schools; and

(8) the Vessel Operations Revolving Fund;

only such sums as the Congress may specifically authorize by law: *Provided, however, That for each of the fiscal years 1969 through 1973, there is authorized to be appropriated (1) for construction-differential subsidy and the cost of national defense features incident to construction, reconstruction, or reconditioning of ships for operation in foreign or non-contiguous domestic commerce, and for the acquisition of used ships pursuant to section 510 of this Act, $300,000,000, to remain available until expended; and (2) for research and development, $25,000,000, to remain available until expended. For fiscal year 1969, there is also authorized to be appropriated for reconstruction of the reserve fleet, $30,000,000, to remain available until expended.*

SEC. 211. The Commission is authorized and directed to investigate, determine, and keep current records of—

(a) The ocean services, routes, and lines from ports in the United States, or in a territory, district, or possession thereof, to foreign markets, which are, or may be determined by the Commission to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States, and in reaching its determination the Commission shall consider and give due weight to the cost of maintaining each of such steamship lines, the probability that any such line cannot be maintained except at a heavy loss disproportionate to the benefit accruing to foreign trade, the number of sailings and types of vessels that should be employed in such lines, and any other facts and conditions that a prudent business man would consider when dealing with his own business, with the added consideration, however, of the intangible benefit the maintenance of any such line may afford to the foreign commerce of the United States and to the national defense;

(b) The type, size, speed, and other requirements of the vessels, including express-liner or super-liner vessels, which should be employed in such services or on such routes or lines, and the frequency and regularity of the sailings of such vessels, with a view to furnishing adequate, regular, certain, and permanent service, *or which should be employed as contract carriers;*

(c) The relative cost of construction of comparable vessels in the United States and in foreign countries;

(d) The relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels in particular service routes, and lines, *or as contract carriers,* under the laws, rules, and regulations of the United States and under those of the foreign countries whose vessels are substantial competitors of any such American service, route, or line, *or contract carrier;*

SEC. 501. (a) [Any citizen of the United States may make application to the Commission for a construction-differential subsidy to aid in the construction of a new vessel to be used in the foreign commerce of the United States.] *Any privately-owned shipyard or proposed shipowner who is a citizen of the United States may make application to the Secretary of Commerce for a construction-differential subsidy to aid in the construction of a new vessel to be documented under the laws of the United States and to be used in the foreign commerce of the United States.* No such application shall be approved by the Commission unless it determines that (1) the plans and specifications call for a new vessel which will meet the requirements of the foreign commerce of the United States, will aid in the promotion and development of such commerce, and be suitable for use by the United States for national defense or military purposes in time of war or national emergency; (2) [the applicant] *the proposed owner of the vessel is a citizen of the United States and* possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain the proposed new vessel, and (3) the granting of the aid applied for is reasonably calculated to replace worn out or obsolete tonnage with new and modern ships, or otherwise to carry out effectively the purposes and policy of this Act. The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price shall not restrict the lawful or proper use or operation of the vessel except to the extent expressly required by law.

* * * * *

SEC. 502. (a) If the Secretary of the Navy certifies his approval under section 501(b) of this Act, and the Commission approves the application, it may secure, on behalf of the [applicant] *proposed shipowner,* bids for the construction of the proposed vessel according to the approved plans and specifications. If the bid of the shipbuilder who is the lowest responsible bidder is determined by the Commission to be fair and reasonable, the Commission may approve such bid, and if such approved bid is accepted by the [applicant] *proposed shipowner,* the Commission is authorized to enter into a contract with the successful bidder for the construction, outfitting, and equipment of the proposed vessel, and for the payment by the Commission to the shipbuilder, on terms to be agreed upon in the contract, of the contract price of the vessel, out of the construction fund herein before referred to, or out of other available funds. Concurrently with entering into such contract with the shipbuilder, the Commission is authorized to enter into a contract with the [applicant] *proposed shipowner* for the purchase by him of such vessels upon its completion, at a price corresponding to the estimated cost, as determined by the Commission pursuant to the provisions of this Act, of building such vessel in a foreign shipyard.

(b) [The amount of the reduction in selling price which is herein termed "construction differential subsidy" may equal, but not exceed, the excess of the bid of the shipbuilder constructing the proposed vessel (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Secretary, of the construction of the proposed vessel if it were constructed under similar plans and specification (excluding national defense features as above provided) in a foreign shipbuilding center which is deemed by the Secretary to furnish a fair and representative example of the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed.] *The amount of the reduction in selling price which is herein termed "construction-differential subsidy" shall be computed by taking the excess of the fair and reasonable estimate, as determined by the Secretary, of the cost of constructing a type of vessel in United States shipyards (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Secretary, of the construction of that type vessel (excluding national defense features as above provided) in a foreign shipbuilding center which is deemed by the Secretary to furnish a fair and representative example of the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed, and expressing the result as a percentage of the fair and reasonable estimate, as determined by the Secretary, of the cost of construction of that type vessel in United States shipyards, and applying such percentage to the lowest responsible bid. Subsidy rates shall be computed separately for different types of vessels and shall be periodically recomputed but not more frequently than once each year. In making his foreign cost estimate, the Secretary shall review and consider any foreign cost estimates and substantiating information submitted by operators, shipyards, or his staff.* The construction differential approved and paid by the Secretary shall not exceed 55 per centum of the construction cost of the vessel, except that in the case of reconstruction or reconditioning of a passenger vessel having the tonnage, speed, passenger accommodations and other characteristics set forth in section 503 of this Act, the construction differential approved and paid shall not exceed 60 per centum of the reconstruction or reconditioning cost (excluding the cost of national defense features as above provided): *Provided, however,* That after [June 30, 1968] *the expiration of three years from the date of enactment of this amendment* the construction differential approved by the Secretary shall not exceed in the case of the construction, reconstruction or reconditioning of any vessel, 50 per centum of such cost. When the Secretary finds that the construction differential in any case exceeds the foregoing applicable percentage of such cost, the Secretary may negotiate and contract on behalf of the applicant to construct, reconstruct, or recondition such vessel in a domestic shipyard at a cost which will reduce the construction differential to such applicable percentages or less. In the event that the Secretary has reason to believe that the bidding in any instance is collusive, he shall report all the evidence on which he acted (1) to the Attorney General of the United States, and (2) to the President of the Senate and to the Speaker of the House of Representatives if the Congress shall be in session or if the Congress shall not be in session, then to the Secretary of the Senate and Clerk of the House, respectively.

* * * * *

SEC. 504. (*a*) Where an eligible [applicant] *proposed shipowner* under the terms of this title desires to finance the construction of a proposed vessel according to approved plans and specifications rather than purchase the same vessel from the Commission as hereinabove authorized, the Commission may permit the [applicant] *proposed shipowner* to obtain and submit to it competitive bids from domestic shipyards for such work. *Alternatively, the Secretary may, in accordance with terms and conditions to be prescribed by him, permit the proposed shipowner to submit a negotiated price together with backup cost details and evidence that the price is fair and reasonable.* If the Commission considers the [bid] *bid or negotiated price* of the shipyard in which the [applicant] *proposed shipowner* desires to have the vessel built fair and reasonable, it may approve such [bid] *bid or negotiated price* and become a party to the contract or contracts or other arrangements for the construction of such proposed vessel and may agree to pay a construction-differential subsidy in an amount determned by the Commission in accordance with section 502 of this title, and for the cost of national-defense features. The construction-differential subsidy and payments for national-defense

features shall be based on the lowest responsible domestic bid, *or the negotiated price.* No construction-differential subsidy, as provided in this section, shall be paid unless the said contract or contracts or other arrangements contain such provisions as are provided in this title to protect the interests of the United States as the Commission deems necessary. Such vessel shall be documented under the laws of the United States as provided in section 503 of this title. The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price, shall not restrict the lawful or proper use or operation of the vessel, except to the extent expressly required by law.

(b) Where a shipyard is the applicant, it may in accordance with terms and conditions prescribed by the Secretary, request construction-differential subsidy based upon a price which has been negotiated with the proposed shipowner. If the Secretary considers the negotiated price to be fair and reasonable, he may become a party to a contract between the shipyard and the shipowner and agree to pay the cost of national defense features and construction-differential subsidy computed under section 502(b) of this Act. If the Secretary determines that the negotiated price is not fair and reasonable, he may request renegotiation in an effort to arrive at a fair and reasonable price. As an alternative to accepting a negotiated price, the Secretary may, with the consent of the shipyard applicant, request competitive bids on the proposal, in which case, the applicant shipyard may be the bidder. In this event, the Secretary may become a party to a contract between the lowest competitive bidder and the proposed shipowner.

* * * * *

SEC. 506. Every owner of a vessel for which a construction-differential subsidy has been paid shall agree that the vessel shall be operated exclusively in foreign trade, or on a round-the-world voyage, or on a round voyage from the west coast of the United States to a European port or ports which includes intercoastal ports of the United States, or a round voyage from the Atlantic coast of the United States to the Orient which includes intercoastal ports of the United States, or on a voyage in foreign trade on which the vessel may stop at the State of Hawaii, or an island possession or island territory of the United States, and that if the vessel is operated in the domestic trade on any of the above-enumerated services, he will pay annually to the Commission that proportion of one twenty-fifth of the construction-differential subsidy paid for such vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year. The Commission may consent in writing to the temporary transfer of such vessel to service other than the service covered by such agreement for periods not exceeding six months in any year, whenever the Commission may determine that such transfer is necessary or appropriate to carry out the purposes of this Act. Such consent shall be conditioned upon the agreement by the owner to pay to the Commission, upon such terms and conditions as it may prescribe, an amount which bears the same proportion to the construction-differential subsidy paid by the Commission as such temporary period bears to the entire economic life of the vessel. No operating-differential subsidy shall be paid for the operation of such vessel for such temporary period.

* * * * *

SEC. 509. Any citizen of the United States may make application to the Commission for aid in the construction of a new vessel to be operated in the foreign or domestic trade (excepting vessels engaged solely in the transportation of property on inland rivers and canals exclusively). If such application is approved by the Commission, the vessel may be constructed under the terms and conditions of this title, but no construction-differential subsidy shall be allowed. The Commission shall pay for the cost of national-defense features incorporated in such vessel. In case the vessel is designed to be of not less than three thousand five hundred gross tons and to be capable of sustained speed of not less than fourteen knots, the applicant shall be required to pay the Commission not less than 12½ per centum of the cost of such vessel, and in the case of any other vessel the applicant shall be required to pay the Commission not less than 25 per centum of the cost of such vessel (excluding from such cost, in either case, the cost of national defense features); and the balance of such purchase price shall be paid by the applicant within twenty-five years in not to exceed twenty-five equal annual installments, with interest at 3½ per centum per annum, secured by a preferred mortgage on the vessel sold and otherwise secured as the Commission may determine: *Provided,* That, notwithstanding any other provisions of law, the balance of the purchase price of a passenger vessel constructed under this section which is delivered subsequent to March 8, 1946, and which has the tonnage, speed, passenger accommodations, and other characteristics set forth in section 503 of this Act, may, with the approval of the Commission, be secured as provided in such section, and the obligation of the purchaser of such a vessel shall be satisfied and discharged as provided in such section.

SEC. 510. (a) When used in this section—

[(1) The term "obsolete vessel" means a vessel or vessels, each of which (A) is of not less than one thousand three hundred and fifty gross tons, (B) is not less than seventeen years old and, in the judgment of the Commission, is obsolete or inadequate for successful operation in the domestic or foreign trade of the United States, and (C) is owned by a citizen or citizens of the United States and has been owned by such citizen or citizens for at least three years immediately prior to the date of acquisition hereunder: *Provided,* That until June 30, 1964, the term "obsolete vessel" shall mean a vessel or vessels, each of which (A) is of not less than one thousand three hundred and fifty gross tons, (B) is not less than twelve years old, and (C) is owned by a citizen or citizens of the United States and has been owned by such citizen or citizens for at least three years immediately prior to the date of acquisition hereunder.]

(1) The term "obsolete vessel" means a vessel or vessels each of which is of not less than one thousand three hundred and fifty gross tons; which has been owned by a citizen or citizens of the United States for at least three years immediately prior to the date of acquisition hereunder; and which in the judgment of the Secretary should be replaced in the public interest.

* * * * *

(j) Any vessel heretofore or hereafter acquired under this section, or otherwise acquired by the Secretary of Commerce under any other authority shall be placed in the national defense reserve fleet established under authority of section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and shall not be traded out or sold from such reserve fleet, except as provided for in [subsections (g) and (i)] *section (g)* of this section. This limitation shall not affect the rights of the Secretary of Commerce to dispose of a vessel as provided in other sections of this title or in titles VII or XI of this Act.

* * * * *

SEC. 801. Every contract executed by the Commission under the provisions of [titles VI or VII] *titles VI, VII, or XIII* of this Act shall contain provisions requiring (1) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to keep its books, records, and accounts, relating to the maintenance, operation, and servicing of the vessels, services, routes, and lines covered by the contract, in such form and under such regulations as may be prescribed by the Commission: *Provided,* That the provisions of this paragraph shall not require the duplication of books, records, and accounts required to be kept in some other form by the Interstate Commerce Commission; (2) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by the contractor, to file, upon notice from the Commission, balance sheets, profit and loss statements, and such other statements of financial operations, special report, memoranda of any facts and transactions, which in the opinion of the Commission affect the financial results in, the performance of, or transactions or operations under, such contract; (3) that the Commission shall be authorized to examine and audit the books, records, and accounts of all persons referred to in this section whenever it may deem it necessary or desirable; and (4) that upon the willful failure or refusal of any person described in this section to comply with the contract provisions required by this section, the Commission shall have the right to rescind the contract, and upon such rescission the United States shall be relieved of all further liability on such contract.

* * * * *

SEC. 804. It shall be unlawful for any contractor receiving an [operating-differential subsidy under title VI] *operating subsidy under titles VI or XIII* or for any charterer of vessels under title VII of this Act, or any holding company, subsidiary, affiliate, or associate of such contractor or such charterer, or any officer, director, agent, or executive thereof, directly or indirectly to own, charter, act as agent or broker for, or operate any foreign-flag vessel which competes with any American-flag service determined by the Commission to be essential as provided in section 211 of this Act: *Provided, however,* That under special circumstances and for good cause shown the Commission may, in its discretion, waive the provisions of this section as to any contractor, for a specific period of time, by affirmative vote of four of its members, except as otherwise provided in section 201(a).

SEC. 805. (a) It shall be unlawful to award or pay any subsidy to any contractor under authority of title VI *or title XIII* of this Act, or to charter any vessel to any person under title VII of this Act, if said contractor or charterer, or any holding company, subsidiary, affiliate, or associate of such contractor or charterer, or any officer, director, agent, or executive thereof, directly or indirectly, shall own, operate, or charter any vessel or vessels engaged in the domestic intercoastal or coastwise service or own any pecuniary interest, directly or indirectly, in any person or concern that owns, charters, or operates any vessel or vessels in the domestic intercoastal or coastwise service without the written permission of the Commission. Every person, firm, or corporation having any interest in such application shall be permitted to intervene and the Commission shall give a hearing to the applicant and the intervenors. The Commission shall not grant any such application if the Commission finds it will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service or that it would be prejudicial to the objects and policy of this Act: *Provided,* That if such contractor or other person above-described or a predecessor in interest was in bona fide operation as a common carrier by water in the domestic, intercoastal, or coastwise trade

in 1935 over the route or routes or in the trade or trades for which application is made and has so operated since that time or if engaged in furnishing seasonal service only, was in bona fide operation in 1935 during the season ordinarily covered by its operation, except in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall grant such permission without requiring further proof that public interest and convenience will be served by such operation, and without further proceedings as to the competition in such route or trade.

If such application be allowed, it shall be unlawful for any of the persons mentioned in this section to divert, directly or indirectly, any moneys, property, or other thing of value, used in foreign-trade operations, for which a subsidy is paid by the United States, into any such coastwise or intercoastal operations; and whosoever shall violate this provision shall be guilty of a misdemeanor.

* * * * *

[(c) In determining the rights and obligations of any contractor under a contract authorized by title VI or title VII of this Act, no salary for personal services in excess of $25,000 per annum paid to a director, officer, or employee by said contractor, its affiliates, subsidiary, or associates, shall be taken into account. The terms "director", "officer", or "employee" shall be construed in the broadest sense. The term "salary" shall include wages and allowances of compensation in any form for personal services which will result in a director, officer, or employee receiving total compensation for his personal services from such sources exceeding in amount or value $25,000 per annum.]

(d) It shall be unlawful, without express written consent of the Commission, for any contractor holding a contract authorized under title VI or VII of this Act to employ any other person or concern as the managing or operating agent of such operator, or to charter any vessel, on which an operating-differential subsidy is to be paid, for operation by another person or concern, and if such charter is made, the person or concern operating the chartered vessel or vessels shall be subject to all the terms and provisions of this Act, including limitations of profits and salaries. No contractor *under titles VI or XIII of this Act* shall receive an operating-differential subsidy for the operation of any chartered vessel save and except during a period of actual emergency determined by the Commission, or except as provided in section 708.

* * * * *

SEC. 810. It shall be unlawful for any contractor receiving an [operating-differential] *operating* subsidy under [title VI] *titles VI or XIII* or for any charterer of vessels under title VII of this Act, to continue as a party to or to conform, to any agreement with another carrier or carriers by water, or to engage in any practice in concert with another carrier or carriers by water, which is unjustly discriminatory or unfair to any other citizen of the United States who operates a common carrier by water exclusively employing vessels registered under the laws of the United States on any established trade route from and to a United States port or ports.

No payment or subsidy of any kind shall be paid directly or indirectly out of funds of the United States or any agency of the United States to any contractor or charterer who shall violate this section. Any person who shall be injured in his business or property by reason of anything forbidden by this section may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

* * * * *

SEC. 905. * * *

(c) The words "citizen of the United States" include a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (U.S.C. title 46, sec. 802), and with respect to a corporation [under title VI] *under titles VI or XIII* of this Act, all directors of the corporation are citizens of the United States, and, in the case of a corporation, partnership, or association operating a vessel on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States the amount of interest required to be owned by a citizen of the United States shall not be less than 75 per centum.

* * * * *

Title X—Aid in developing, constructing, and operating privately owned nuclear-powered merchant ships

Sec. 1001. The purpose of this title is to further implement the policy declared in section 101 of this Act, by fostering at the least cost to the United States the development, construction, and operation of privately owned nuclear-powered merchant ships whose designs embody significant departures from the designs of existing nuclear-powered merchant ships which may lead to reduction of the cost of constructing and operating future nuclear-powered merchant ships.

Sec. 1002. The Secretary of Commerce is authorized to invite from citizens of the United States proposals for the development and construction of nuclear-powered merchant ships for operation in the domestic or foreign commerce of the United States, including trade on the Great Lakes. Proposals shall be invited only for the development and construction of nuclear-powered merchant ships (1) of types and general specifications (whether dry-cargo, liquid bulk carrier, or other) determined by the Secretary of Commerce, and (2) with nuclear propulsion systems of general types and conceptual designs which the Atomic Energy Commission has determined could reasonably be expected to accomplish nuclear power base development program objectives more quickly, more effectively, or at lower cost than other nuclear propulsion systems (these would include, without limitation, objectives of dependability, reliability, operability, and the acquisition of data that would be of value to the future development of merchant marine nuclear propulsion systems). Each proposal shall include a detailed description of the proposed ship or ships; their contemplated use in commerce; the proposed development, construction, and operating programs; the technical justification and detailed estimate of development, construction and operating costs; the amount of aid applied for itemized separately for the development, construction, and operating programs; and such other information as the Secretary directs.

Sec. 1003. The Secretary, in cooperation with the Atomic Energy Commission, shall evaluate all proposals determined to be responsive to the invitation and shall select from them the proposal or proposals which will most closely carry out the purposes of this title. If the Secretary determines that the person who submitted a selected proposal, although such person may have had no experience in the operation of nuclear-powered ships, possesses the ability, experience, financial resources, and other qualifications necessary to enable him to operate and maintain ships in that area of the domestic or foreign commerce of the United States (including trade on the Great Lakes) in which he proposes to operate the proposed ship or ships, the Secretary may negotiate the award of a contract with such person (hereafter called the applicant) for the development and construction of the proposed ship or ships. The Secretary may require such modifications in the proposed ship or ships as he deems desirable, taking into account the views of the Atomic Energy Commission with respect to modifications of the nuclear propulsion system, and the views of the Secretary of Defense with respect to national defense features. The Secretary may agree to provide so much of the aid authorized by section 1004 of this title as he determines is necessary to carry out the purposes of this title, taking into consideration the financial risk to the applicant, and the contribution which the development, construction and operation of the proposed ships or ships may make toward carrying out the purposes of this title.

Sec. 1004. (a)(1) In connection with the development and construction of vessels proposed and selected pursuant to section 1003, the Secretary may offer the following assistance:

(A) With the scientific and engineering advice of the Atomic Energy Commission, he may assist in negotiating the award of and become a party to contracts between the applicant and the developer for the development of the proposed nuclear-powered merchant ship or ships, including the first fuel cores. He may agree in such contracts to pay the developer all of, or part of, the excess of the cost of developing the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of developing a comparable conventional ship or ships without national defense features.

(B) He may become a party to contracts between the applicant and the builder for the construction of the proposed nuclear-powered merchant ship or ships, and may agree in such contracts to pay the builder all of, or part of, the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated average weighted fair and reasonable foreign cost of constructing a comparable conventional ship or ships without national defense features: Provided, however, That if the ship or ships are to be operated in the domestic trade (except the non-contiguous domestic trade) aid under this paragraph is limited to the excess of the cost of constructing in the United States the proposed ship or ships, including national defense features and the first fuel cores, over the estimated fair and reasonable cost of constructing a comparable conventional ship without national defense features in the United States.

(2) The Secretary may also assist in training crews for the ships; plan and design or assist in planning and designing appropriate shore facilities to service the ships; make available to the applicant, with the consent of the Atomic Energy Commission, appropriate classified information; provide research and development in Government laboratories which have facilities, personnel, or equipment not available in private laboratories, with the consent of the department or agency which operates the laboratory, and with or without charge to the applicant; and provide, without charge, design review services, ship construction inspection services and ship operation advisory services.

(3) If, under section 184 of the Atomic Energy Act of 1954 (42 U.S.C. 2234), the Atomic Energy Commission consents to the creation of a mortgage or lien on the nuclear-powered merchant ship, and if the loan and mortgage are eligible for insurance under title XI of this Act, the Secretary may insure under that title the interest on and the unpaid balance of the principal amount of the loan and mortgage. In determining the applicant's eligibility, the Secretary is not required to make the finding required by subsection (c) of section 1004 of this Act. The Secretary may make the findings required by subsection (a)(1) and (b)(1) of section 1104 even though the applicant has had no experience in the operation of nu-

clear-powered merchant ships. The applicability of section 184 of the Atomic Energy Act of 1954 to the ship shall not prevent a mortgage on the ship from being a preferred mortgage under the Ship Mortgage Act, 1920.

(b) In providing the aid specified in subsection (a) of this section, the Secretary may, upon payment of the costs, and with the consent of the department or agency concerned, avail himself of the use of licenses, information, services, facilities, offices, and employees of any executive department, independent establishment, or other agency of the Government, including any field service thereof.

(c) Section 505(a) of this Act shall apply to all ships whose construction is aided under this title.

Sec. 1005. Each applicant for aid under this title shall agree that if the ship, after its construction is completed, cannot at any time be operated for a period of more than 30 days because of an inter-union dispute in which the fact that the ship is nuclear-powered is an important element, the owner will, if so directed by the Secretary of Commerce, place the vessel up for sale at competitive bidding, with a minimum price in the amount that would be paid if the vessel were requisitioned for title, and on such other terms and conditions as the Secretary of Commerce determines will be conducive to the continued operation of the ship. This obligation shall run with the title to the vessel.

Sec. 1006. Any ship developed and constructed with aid under this title shall be documented under the laws of the United States and shall remain so documented for 25 years or so long as it is propelled by nuclear propulsion, whichever is longer.

Sec. 1007. Ships whose construction is aided under this title are eligible to receive operating-differential subsidy under whatever system is in force when the ships go into operation if the applicant qualifies under the statute.

Sec. 1008. There are authorized to be appropriated to the Secretary such sums as may be necessary, to remain available until expended, to carry out the provisions of this title.

Sec. 1009. Authority to contract for the development or construction of ships under this title expires at midnight on the last day of the sixtieth month following the month in which this title is enacted.

THE ATOMIC ENERGY ACT OF 1954

* * * * *

SEC. 152. INVENTIONS MADE OR CONCEIVED DURING COMMISSION CONTRACTS—Any inventions or discovery, useful in the production or utilization of special nuclear material or atomic energy, made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, *or with the Secretary of Commerce under the authority of title X of the Merchant Marine Act, 1936, as amended,* regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds [by the Commission] *by the Commission or the Secretary,* shall be vested in, and be the property of, the Commission, except that the Commission may waive its claim to any such invention or discovery under such circumstances as the Commission may deem appropriate, consistent with the policy of this section. No patent for any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, shall be issued unless the applicant files with the application, or within thirty days after request therefor by the Commissioner of Patents (unless the Commission advices the Commissioner of Patents that its rights have been determined and that accordingly no statement is necessary) a statement under oath setting forth the full facts surrounding the making or conception of the invention or discovery described in the application and whether the invention or discovery was made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission. The Commissioner of Patents shall as soon as the application is otherwise in condition for allowance forward copies of the application and the statement to the Commission.

The Commissioner of Patents may proceed with the application and issue the patent to the applicant (if the invention or discovery is otherwise patentable) unless the Commission, within ninety days after receipt of copies of the application and statement, directs the Commissioner of Patents to issue the patent to the Commission (if the invention or discovery is otherwise patentable) to be held by the Commission as the agent of and on behalf of the United States.

If the Commission files such a direction with the Commissioner of Patents, and if the applicant's statement claims, and the applicant still believes, that the invention or discovery was not made or conceived in the course of or under any contract, subcontract or arrangement entered into with or for the benefit of the Commission entitling the Commission to the title to the application or the patent the applicant may, within thirty days after notification of the filing of such a direction, request a hearing before a Board of Patent Interferences. The Board shall have the power to hear and determine whether the Commission was entitled to the direction filed with the Commissioner of Patents. The Board shall follow the rules and procedures established for interference cases and an appeal may be taken by either the applicant or the Commission from the final order of the Board to the Court of Customs and Patent Appeals in accordance with the procedures governing the appeals from the Board of Patent Interferences.

If the statement filed by the applicant should thereafter be found to contain false material statements any notification by the Commission that it has no objections to the issuance of a patent to the applicant shall not be deemed in any respect to constitute a waiver of the provisions of this section or of any applicable civil or criminal statute, and the Commission may have the title to the patent transferred to the Commission on the records of the Commissioner of Patents in accordance with the provisions of this section. A determination of rights by the Commission pursuant to a contractual provision or other arrangement prior to the request of the Commissioner of Patents for the statement, shall be final in the absence of false material statements or nondisclosure of material facts by the applicant.

* * * * *

SEC. 170. INDEMNIFICATION AND LIMITATION OF LIABILITY.—

* * * * *

1. The Commission is authorized until August 1, 1977, to enter into an agreement of indemnification with any person engaged in the design, development, construction, operation, repair, and maintenance or use of the nuclear-powered ship authorized by section 716 of the Merchant Marine Act, 1936, and designated the 'nuclear-ship *Savannah', or any ship whose development or construction is aided under title X of the Merchant Marine Act, 1936, as amended.* In any such agreement of indemnification the Commission may require such person to provide and maintain financial protection of such a type and in such amounts as the Commission shall determine to be appropriate to cover public liability arising from a nuclear incident in connection with such design, development, construction, operation, repair; maintenance or use and shall indemnify the person indemnified against such claims above the amount of the financial protection required, in the amount of $500,000,000 including the reasonable costs of investigating and settling claims and defending suits for damage in the aggregate for all persons indemnified in connection with each nuclear incident: *Provided,* That this amount of indemnity shall be reduced by the amount that the financial protection required shall exceed $60,000,000.

THE MERCHANT MARINE ACT, 1936

SEC. 607. * * *

(b) * * *

The contractor shall also deposit in the capital reserve fund, from time to time, such percentage of the annual net profits of the contractor's business covered by the contract as the Commission shall determine is necessary to further build up a fund for replacement of contractor's subsidized ships, but the Commission shall not require the contractor to make such deposit of the contractor's net profits in the capital reserve fund unless the cumulative net profits of the contractor, at the time such deposit is to be made, shall be in excess of 10 per centum per annum from the date the contract was executed. From the capital reserve fund so created, the contractor may pay the principal, when due, on all notes secured by mortgage on the subsidized vessels and may make disbursements for the purchase of replacement vessels or reconstruction of vessels or additional vessels to be employed by the contractor on an essential foreign-trade line, route, or service approved by the Commission, and on cruises, if any, authorized under section 613 of this title, *or new nuclear fuel cores for vessels,* but payments from the capital reserve fund shall not be made for any other purpose.

* * * * *

SEC. 1104(a) * * *

(5) shall secure bonds, notes or other obligations bearing interest (exclusive of premium charges for insurance, *and service charges, if any*) at [a rate] *rates* not to exceed [5] *such* per centum per annum on the [amount of the unpaid principal at any time, or not to exceed 6 per centum per annum if the Secretary of Commerce finds that in certain areas or under special circumstances the mortgage or lending market demands it] *principal obligation outstanding as the Secretary of Commerce determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Department of Commerce;*

SEC. 1106. No provision of this title shall be construed to authorize the Secretary of Commerce to insure a mortgage securing any loan or advance made prior to the enactment of this title, and no mortgage shall be insured for refinancing in whole or in part any existing mortgage indebtedness except as provided in section 1107, or

(1) where a substantial portion of the total amount to be secured by the new mortgage, not to extend beyond twenty-five years from the date of the original mortgage, shall be applied to new construction, reconditioning, or reconstruction of one or more of the mortgaged vessels: *Provided, however,* That the aggregate amount of all mortgages insured under this paragraph and outstanding at any one time shall not exceed $20,000,000, and provided that all of the eligibility requirements of section 1104 (46 U.S.C. 1274) not inconsistent with this paragraph are complied with;

(2) where the Secretary of Commerce has insured a mortgage under the provisions of this title, and the mortgagor thereafter makes application to the mortgagee or another

lender for an additional loan or advance for reconditioning or reconstructing the mortgaged property or to provide a new nuclear fuel core for the mortgaged property, the Secretary of Commerce may insure a new mortgage, not to extend beyond twenty-five years from the date of the original mortgage, in the amount of the principal outstanding balance of the original mortgage plus the amount of the additional loan, provided the amount of the additional loan is within the limits of paragraph (2) of subsection (a) of section 1104 (46 U.S.C. 1274) and the new mortgage conforms to the eligibility requirements of all the other paragraphs of said subsection (a);

* * * * *

Title XIII—Experimental operating subsidy

Sec. 1301. The Secretary of Commerce is authorized to enter into five-year experimental contracts with liner operators for the payment of operating subsidy for the operation of liner vessels in the foreign commerce of the United States and with owners of dry bulk vessels built after the enactment of this title for operation as contract carriers in the foreign commerce of the United States, subject to such terms and conditions as the Secretary may determine.

Sec. 1302. A subsidy contract may be awarded on any service which the Secretary, in his discretion, without public hearing, determines is not adequately served. Applicants for such contracts must meet the eligibility requirements of section 601 of this Act. The Secretary, in his discretion, may apply the provisions of sections 605(a) and (b), 606 (5) (6) (7), 607(a) (b) (c) (d) (e) (f) (g), 608, 609, 610, and 611 of this Act, or any of them, to contracts entered into under this title. He may also, in his discretion, apply the provisions of section 607(h) to contracts entered into under this title with liner operators.

Sec. 1303. The amount payable during the first year of the subsidy contract shall not exceed the difference between the costs incurred in operating the ship for insurance, wages, maintenance and repair, and the cost of such items incurred in the operation of a comparable ship under the flag of a foreign country whose ships are substantial competitors of the subsidized ship. During the subsequent years of the contract, the amount of subsidy shall be computed in such manner as the Secretary in his discretion may determine. In developing any new system the Secretary shall be guided by the overriding principal that the system must contain incentives which can be reasonably expected to reduce unit costs of subsidy in the future. Such incentives may include the use of an objective index or indices to govern the annual change in costs eligible for subsidy, the use of a formula or formulae reasonably relating the amount of subsidy payable to the performance or production of subsidized service, or the use of such other reasonable approaches to the determination of the amount of subsidy as the Secretary may in his discretion establish.

Sec. 1304. Such contracts shall provide that upon their termination the operator shall have the option of receiving a contract for the operation of his vessels under whatever subsidy system is in force at that time, or of selling his ships to the Government for a price not to exceed their depreciated book value.

Shipbuilding Commission

(a) There is hereby established a Commission to be known as the Commission on American Shipbuilding (hereinafter referred to as the "Commission"). The Commission shall be composed of six members, appointed by the President. At least one member shall be from the United States shipbuilding industry. Members of the Commission shall be appointed for the life of the Commission. The President shall designate one of the members of the Commission as Chairman. Four members of the Commission shall constitute a quorum.

(b) Members of the Commission shall each be entitled to receive $100 per diem when engaged in the actual performance of duties vested in the Commission, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(c) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

(d) The Commission shall have the power to appoint and fix the compensation of such personnel, as it deems advisable, subject to the civil service laws and the Classification Act of 1949, as amended.

(e) The Commission may procure, in accordance with the provisions of title 5 of the United States Code, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $100 per diem, including traveltime, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(f) The Commission shall conduct a study of the extent to which Federal assistance to the private shipbuilding industry in the United States is necessary to preserve the competitive position of such industry and to preserve a national capability for the building and repair of United States merchant and United States naval ships.

(g) The Commission shall not later than three years after the date of enactment of this Act submit a comprehensive report of its findings and recommendations to the President and to the Congress, and thereafter shall cease to exist.

Title XIV—Replacement and expansion of United States nonsubsidized merchant and fishing fleets.

Sec. 1401. Authority To Negotiate Contracts.—(a) For the purpose of promoting the construction or acquisition of new merchant vessels or the substantial reconstruction of existing merchant vessels and for other purposes authorized by this Act, the Secretary of Commerce may enter into contracts not to exceed twenty years with any person who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the merchant vessels as to meet competitive conditions and promote United States domestic or foreign commerce.

(b) For the purpose of promoting the construction of new fishing vessels, the Secretary of the Interior may enter into contracts not to exceed twenty years with any person who is a citizen of the United States if the Secretary determines the person possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the fishing vessel to meet competitive conditions and promote the utilization of fishery resources.

Sec. 1402. Terms and Conditions of Contract.—The Secretary shall include in each contract a provision—

(a) that any new vessel constructed under a contract will be built in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;

(b) that any new vessel acquired under a contract will be one that was built in a shipyard in the United States for the United States Government under a contract with a shipbuilder entered into after the effective date of this Act;

(c) that any vessel substantially reconstructed under a contract will be one that was built in a shipyard in the United States and will be substantially reconstructed in a shipyard in the United States under a contract with a shipbuilder entered into after the effective date of this Act;

(d) that any vessel constructed, acquired, or substantially reconstructed under a contract will be of a type, size, and speed that the Secretary determines to be suitable for use on the high seas or Great Lakes;

(e) that any vessel constructed, acquired, or substantially reconstructed under a contract negotiated under section 1(a) will be of a type which the Secretary of the Navy certifies is suitable for economical and speedy conversion into a naval auxiliary or otherwise suitable for use by the United States in the event of war or national emergency;

(f) for the creation and maintenance of a capital reserve fund;

(g) for the approximate number and type of vessels which the contractor will construct, acquire, or substantially reconstruct subject to modifications and extensions upon a showing to the satisfaction of the Secretary of acceptable reasons for modifications or extensions;

(h) for additional terms and conditions consistent with this Act, that the Secretary determines to be necessary to protect the interest of the United States;

(i) for the early replacement of any war-built vessel used in the movement of cargo under section 901(b), Merchant Marine Act, 1936, as amended;

(j) that each contractor agrees not to incur any purchase money indebtedness with respect to any vessel constructed, acquired, or substantially reconstructed under a contract without the prior consent of the Secretary;

(k) that upon failure of the contractor to construct, acquire, or substantially reconstruct any vessel as provided in the contract as modified or extended, all deposits of the contractor will be withdrawn from the fund with the same tax consequences as result from withdrawals from the funds created by section 607, Merchant Marine Act, 1936, as amended, and no further deposits may be made by the contractor until a new contract is negotiated; and

(l) that the contractor agrees that any vessel constructed or acquired under a contract will remain documented under the laws of the United States for twenty-five years from the date of its delivery by the shipbuilder and any vessel reconstructed under a contract will remain documented under the laws of the United States for the remainder of its economic life as determined by the Secretary.

Sec. 1403. Creation and Maintenance of Capital Reserve Fund.—(a) Each contractor shall create and maintain for the duration of the contract, in depositories approved by the Secretary, a capital reserve fund under the joint control of the operator and the Secretary.

(b) Each contractor shall deposit in the capital reserve fund as is required to be deposited by subsidized operators under section 607, Merchant Marine Act, 1936, as amended, the proceeds of sales of vessels, the proceeds of insurance and indemnities, the depreciation charges, as earned, and the earnings made on deposits in the capital reserve fund, and shall annually deposit any percentage of differential payments received on the movement of cargo under section 901(b), Merchant Marine Act, 1936, as amended, that the Secretary determines is from profits and is necessary to fulfill the contractor's obligation under the contract.

(c) The contractor may deposit in the fund other earnings from his vessel operations.

Sec. 1404. Tax Department of Deposits in the Fund.—(a) Deposits of capital gains into the fund are taxed in the same manner as deposits of capital gains by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

(b) Deposits of earnings and differential payments into the fund are taxed in the same manner as deposits of earnings of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

Sec. 1404. Withdrawals From the Fund.—Contractors may withdraw deposits from the fund with the same restriction and limitation, under the same conditions and with the same tax consequences as deposits may be withdrawn from the capital reserve fund by subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

Sec. 1405. Investment of the Fund.—Contractors may invest deposits in the fund under the conditions and with the same restriction as deposits of subsidized operators under section 607, Merchant Marine Act, 1936, as amended.

Sec. 1406. Discontinuance of Differential Payments.—No operator of a nonsubsidized vessel may receive any differential payments for cargo moved by such vessel under section 901(b), Merchant Marine Act, 1936, as amended, unless the operator has concluded a contract with the Secretary under this Act before January 1, 1968.

Sec. 1407. Definitions.—In this Act—

(a) "Contract" means a vessel construction, acquisition, or reconstruction contract authorized by this Act.

(b) "Differential payments" means the payments made by the United States Government to operators of United States-flag merchant vessels for the movement of cargo under section 901(b), Merchant Marine Act, 1936, as amended, at rates in excess of world market rates.

(c) "Documented" includes enrolled.

(d) "Earnings from the operation of vessels" includes hire from bareboat charters.

(e) "Earnings made on deposits" means earnings on funds deposited as well as earnings on accumulated earnings and gains made on sale of securities.

(f) "Fund" means the capital reserve fund authorized by this Act.

(g) "Nonsubsidized vessel" means any vessel not included in an operating differential subsidy contract under the Merchant Marine Act, 1936, as amended.

(h) "Person" includes corporation.

(i) "Reconstruction" means the substantial reconstruction and major modernization of a vessel if the Secretary determines that the objectives of this Act will be promoted by such reconstruction.

(j) "Secretary" means the Secretary of Commerce in reference to powers and duties relating to contracts for the construction, acquisition, or substantial reconstruction of merchant vessels and means the Secretary of the Interior in reference to powers and duties relating to contracts for the construction of fishing vessels.

(k) "Subsidized operators" means persons who have an operating differential subsidy contract under the Merchant Marine Act, 1936, as amended.

(l) "Vessel" includes non-self-propelled vessels, cargo containers, cargo vans, and other related equipment.

(m) "War-built vessel" means a vessel as defined in section 3, Merchant Ship Sales Act, 1946.

A HISTORIC MOMENT

Mr. BARTLETT. Mr. President, 11 months ago I gave a speech at a launching of a ship at Pascagoula, Miss.

In that speech I brought up the subject of Congress taking the lead in developing a viable merchant marine if the administration would not.

I concluded that speech by saying:

Let there be many more christenings. Let there be many more launchings. Let American ships slide from the ways into the water in increasing numbers. Let the American flag fly on ships on all the seas and in all the ports. So it was in the days of old. So it will be in the days to come if we set our minds and hearts to the task.

Since that speech, many persons in Congress, under the skillful leadership of the senior Senator from Washington [Mr. MAGNUSON] have set their minds and hearts to the task.

Today, with the introduction of this bill, we see the results of this commitment to a sound sea policy.

I am proud to have played a part in devising this bill which I consider a historic document, for in truth, if it is enacted, it will at long last make a reality of our Nation's maritime policy as stated in 1916, 1920, and 1936.

Mr. President, this year I held extensive hearings on the present state and future of our merchant marine. There was general agreement that our fleet was sinking fast and if steps were not taken swiftly to reverse the trend, this Nation would, for all intents and purposes, cease to be a maritime power.

Mr. President, I think it is quite clear that we cannot allow this Nation's ships to disappear from the high seas, for if we do, not only will our military effectiveness suffer, but in the competition for new markets for our commerce, in our efforts to help developing nations progress peacefully toward better standards of living, we would be at the mercy of foreign interests, of interests which are not necessarily dedicated to our well-being.

As I said, there was agreement that our merchant marine fleet was deteriorating rapidly, but unfortunately, the agreement ended there. Each segment of the industry had its own proposals on how best to rebuild the fleet, and in many instances, these proposals were in conflict with suggestions from other segments of the industry.

As the senior Senator from Washington pointed out, these conflicting positions brought about an impasse which I hope will be resolved with the introduction of this bill today.

I do not expect all segments of the industry to agree with all that is in the program.

However, I do expect all segments of the industry to recognize that this bill represents a sound program which can lead to a modern merchant marine.

In a speech to a meeting of the National Defense Transportation Association this summer, I said that regardless of where it came from, a merchant marine program should be placed before Congress and its fate debated and settled in public. Through such a debate the public could learn if there were those who were more dedicated to exercising power than in working out a sound policy.

Here is the program. Now let us see if everyone who has expressed such great concern about the future of merchant marine is prepared to give a little in order to gain a great deal, in order to gain a modern merchant marine.

I will not review the provisions of this bill. A section-by-section analysis of the bill has been inserted in the RECORD.

I would like to point out that the bill is not entirely restricted to merchant vessels. The bill also includes a provision which extends a tax deferred capital reserve fund program presently in effect for subsidized merchant vessel operators to operators of fishing vessels as well as to presently nonsubsidized merchant vessel operators. Tax deferred funds may be accumulated under this program, but they can be spent only for the construction of new vessels. It is my hope that in a small way this provision will encourage modernization of our fishing fleet as well as our merchant marine.

So it is with the introduction of this bill today Congress is given a challenge for tomorrow, a challenge which may well test our mettle as much as the oceans test the skills and courage of the men who go down to the sea in ships. However, I believe we must face and shall face this challenge successfully, for it is of great importance to our national security, in the broadest sense of the phrase, that we have a modern, competitive merchant marine.

Hearings will be held to give interested parties an opportunity to comment on the program, but as Senator MAGNUSON said, our intention is to move as swiftly as possible. Let us get on with building what has to be built.

NOTICE OF MOTION TO SUSPEND THE RULE—AMENDMENT TO MILITARY CONSTRUCTION APPROPRIATION BILL, 1968

AMENDMENT NO. 437

Mr. JAVITS submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 13606) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1968, and for other purposes, the following amendment; namely, at the end of the bill insert the following new section:

"The joint resolution of October 5, 1967 (Public Law 90–102), is hereby amended by striking 'October 23, 1907' and inserting in lieu thereof 'November 30, 1967'."

Mr. JAVITS also submitted an amendment, intended to be proposed by him, to House bill 13606, making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1968, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

ADDITIONAL COSPONSORS OF CONCURRENT AND JOINT RESOLUTIONS

Mr. CLARK. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from Idaho

[Mr. CHURCH], the Senator from Hawaii [Mr. INOUYE], the Senator from Missouri [Mr. LONG], and the Senator from Wisconsin [Mr. NELSON] be added as cosponsors of the concurrent resolution (S. Con. Res. 47) relative to the establishment of a United Nations peacekeeping force.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from Arizona [Mr. FANNIN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Missouri [Mr. LONG], the Senator from Utah [Mr. Moss], and the Senator from Vermont [Mr. PROUTY] be added as cosponsors of the joint resolution (S.J. Res. 120) to create a Special Commission on Trade and Tariffs to investigate trading policies.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF AMENDMENTS TO H.R. 12080

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New York [Mr. KENNEDY], I ask unanimous consent that at the next printing of amendments Nos. 424 and 425 to H.R. 12080, the name of the Senator from Massachusetts [Mr. BROOKE] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New York [Mr. KENNEDY], I ask unanimous consent that at the next printing of amendments Nos. 411 and 412 to H.R. 12080, the names of Senators CLARK, MCGEE, INOUYE, KENNEDY of Massachusetts, MCGOVERN, HART, and WILLIAMS of New Jersey be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILL SIGNED

The PRESIDING OFFICER announced that on today, November 9, 1967, the President pro tempore signed the enrolled bill (S. 1872) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, which had previously been signed by the Speaker of the House of Representatives.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 9, 1967, he presented to the President of the United States the following enrolled bills:

S. 62. An act for the relief of Dr. Pablo E. Tabio;

S. 808. An act for the relief of Dr. Menelio Segundo Diaz Padron;

S. 863. An act for the relief of Dr. Cesar Abad Lugones;

S. 1105. An act for the relief of Dr. G. F. Valdes-Fauli;

S. 1109. An act for the relief of Dr. Ramon E. Pyarzun;

S. 1872. An act to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes;

S. 2167. An act for the relief of Dr. Rolando Pozo y Jimenez; and

S. 2192. An act for the relief of Dr. Rafael de la Portilla.

NOTICE OF HEARINGS—AMENDMENT TO S. 1659

Mr. McINTYRE. Mr. President, on Monday, November 13, I plan to offer as an amendment to S. 1659 a proposal which would authorize member banks of the Federal Reserve System, subject to the approval of the Comptroller of the Currency and upon appropriate compliance with the provisions of the Securities Act of 1933 and the Investment Company Act of 1940, to establish and operate commingled management-agency accounts and commingled pension funds authorized under the Smathers-Keogh Act. In addition, the amendment would make clear the power of the Comptroller to authorize national banks to establish and to operate common trust accounts.

Mr. President, I have discussed this with the Senator from Alabama [Mr. SPARKMAN], chairman of the Banking and Currency Committee. He has asked me to announce that the committee will meet in room 5300, New Senate Office Building, 9 a.m., November 16, 1967, to receive testimony on the proposal. Those desiring to appear should get in touch with Mr. Lewis G. Odom, Jr., staff director and general counsel of the committee, extension 3921.

PROGRESS TOWARD HOMEOWNERSHIP FOR LOWER INCOME FAMILIES

Mr. PERCY. Mr. President, yesterday morning the Housing and Urban Affairs Subcommittee, after months of patient and diligent effort, agreed to report a new omnibus housing bill to the full Banking and Currency Committee, from which I trust it will be promptly reported to the floor of the Senate.

The central theme of the bill acted upon is homeownership for lower income families. To that end, the omnibus bill will subsidize the monthly payments of lower income families to enable them to own homes and cooperative or condominium apartments of their own. Thus an entirely new option will be available to families now eligible only for public housing or rent supplement. It will provide new authority and encouragement to the Federal Housing Administration to insure properties in presently blighted neighborhoods and for families whose credit record would otherwise disqualify them from obtaining FHA mortgages. It will make possible the conversion of 221 (d) (3) multifamily housing to condominium ownership, and the use of section 221(h) for condominium rehabilitation. The bill provides that the Secretary of Housing and Urban Development shall develop with the private insurance industry a plan for insuring lower income homeowners against untimely foreclosure for reasons beyond their control, and report the joint findings and recommendations for action to Congress within 6 months. It would expand the present provisions authorizing sale of public housing to tenants or tenant cooperatives. And it would charter a nonprofit National Home Ownership Foundation to encourage local housing and homeownership programs for lower income families across the country.

I am particularly grateful to the members of the subcommittee for their long and patient consideration of S. 1592, the National Home Ownership Foundation Act introduced and sponsored by 40 Senators, and their decision to incorporate a modified version of it into this omnibus bill. While the Foundation as proposed in this bill departs in some respects from the Foundation as originally introduced, it is nonetheless an important step toward achieving all those original goals, and I encourage every Member of this body to give the omnibus bill his active support when this legislation comes to floor action.

The housing bill reported by the subcommittee yesterday could not have been possible without the leadership of the chairman of the subcommittee, the Senator from Alabama [Mr. SPARKMAN], and the concerned participation of the ranking minority member of the subcommittee, the Senator from Texas [Mr. TOWER]. Much of the credit for inclusion of the compromise National Home Ownership Foundation section goes to the Senator from Minnesota [Mr. MONDALE], who labored with me for many months to develop a compromise agreement that could receive the unanimous support of the members of the subcommittee. This effort was also joined by the senior Republican of the Banking and Currency Committee [Mr. BENNETT] and by Senators PROXMIRE, MUSKIE, WILLIAMS of New Jersey, and MCINTYRE. To them I express my most sincere thanks for all the time and effort they have put in. I must also commend the Senator from Massachusetts [Mr BROOKE] for his insistence that the FHA insure properties in blighted neighborhoods in order that all Americans can share in the benefits of the FHA program. Nor can I overlook the wise counsel I have received from the outset of the original bill from the distinguished minority leader, my senior colleague from Illinois [Mr. DIRKSEN], and from the chairman of the Republican policy committee, the Senator from Iowa [Mr. HICKENLOOPER].

Mr. President, enactment of this omnibus legislation in whatever final form it may take accentuates the beginning of a new era of congressional interest in advancing the cause of equity ownership of housing by lower income families. That cause has already been pioneered by several Members of the other body. Foremost among them is Congressman WILLIAM B. WIDNALL, of New Jersey, who led 112 Members of the House in introducing the National Home Ownership Foundation Act, and who, for many years, has served with great distinction as ranking minority member of the Committee on Banking and Currency and its Housing Subcommittee. Without his vast knowledge and expertise in the area of housing, much of this legislation might well never have been proposed.

Nor can I overlook other Members of the other body who have championed

this cause. The distinguished lady from Missouri [Mrs. SULLIVAN] spearheaded the drive in the 89th Congress to enact present section 221(h). Chairman PATMAN and ranking majority member BARRETT have indicated to me a deep and continuing interest in broadening homeownership to more American families. Congressmen REUSS, ASHLEY, and MOORHEAD have introduced useful and thoughtful legislation this year to advance homeownership as have Senators KENNEDY of New York, RIBICOFF, and TYDINGS in this body.

This bill is not presumed to cure all the evils of the Nation's slums. It will not by itself produce a rebirth of our declining rural areas. It will not of itself stop urban riots. It will not do all of the things that desperately need to be done if the lower income families of this country have the fair chance they deserve to win a stake in this country and to share in the benefits of America's affluence.

It is, however, an important step in several critical areas. Furthermore it is a step originated and acted upon by the Congress itself, which chose to act, to positively initiate, to create and not just respond.

The road we must follow is long and difficult. I fervently hope this omnibus bill will be acted upon swiftly by the Congress. I hope it will be improved and refined by this body and by the Members of the other body, wherever changes can be made to strengthen it and further its purpose. With the momentum it may generate, let us hope much more can be done to meet the problems that today so vex and dismay Americans of all races, colors, and walks of life. Modest a step as it is, by this act alone the dream of America shall become a reality for hundreds of thousands of families within the next 3 years and millions of families within a decade who otherwise would be deprived of the stabilizing influence of homeownership.

U.S. TRADE POLICY

Mr. PERCY. Mr. President, the widening dialog on the subject of "U.S. Trade Policy" could be regarded as having taken a constructive turn if it were true that the threat of floor consideration of the full range of pending quota proposals had abated. I have been extremely gratified by the large number of letters I have received from interested parties on both sides of this issue, who are anxious to make it clear that case-by-case analysis of the quota proposals is much preferable to wholesale consideration. Many express the danger that the dialog will deteriorate into protectionist versus free trade rhetoric which will do no good service to industry nor to the general public.

The philosophic considerations of trade barrier reduction versus protection of domestic industry could dominate this discussion. But the use of the quota device by itself should be as much a matter of enlightened national policy and public concern as are tax deductions and social security benefits. It involves issues as fundamental and intricate as truth in lending and truth in packaging. The wholesale adoption of quotas would have distressing implications. It would indicate a real injury which has not yet been convincingly demonstrated. For these reasons I believe a discussion of the quota device and its effects is necessary.

WHAT IS A QUOTA?

A quota is a limitation by government of the quantity of a commodity that is permitted to be imported within a given time period. These "quantitive" restrictions are usually stated in terms of weight, or number, though they may also be stated in terms of value.

There are three types of quotas: absolute, tariff and mixing quotas.

An absolute quota puts a fixed limit on imports from one or all countries. Imports in excess of the government-fixed quota amount are cut off at the border. Metaphorically, this is described as a "guillotine" quota. The absolute quota is the most restrictive of the three types of quotas and in its operation the most disruptive of trade. It is the type of quota almost unanimously sought by the quota bills now pending in the Senate and the House.

An absolute quota can either be global or allocated. A global quota allows an amount of imports to be entered from any supplying country or countries until the permitted limit is reached. An allocated quota, however, assigns shares of the permitted imports to individual supplying countries.

The steel quota bill, S. 2537, provides an example of an allocated quota. It proposes to fix imports among supplying countries, products, and even ports of entry. It would restrict imports in four different ways. First, it would establish a set relationship between imports and domestic consumption based on a representative past period. Second, it would provide that only our traditional steel supplying countries could share in the permitted quota amount, and that their shares would be constant. Third, the bill would freeze the ratio of imports to consumption for individual items in the steel schedules of the U.S. tariff, obstructing natural movements of imports among the various items. Fourth, the bill contains a vague provision giving the Secretary of Commerce discretionary authority to control the quantity of imports at individual ports.

Though presented by sponsors as an enlightened method of trade control, the absolute quota described above would result in total control over steel imports. Trade would be rigidified, with serious economic effects. Government would control that trade, with resulting dangerous political effects.

While absolute quotas are usually imposed by importing countries, they can also be imposed and regulated by the exporting country. Under the long-term arrangement regarding trade in cotton textiles—which was recently renewed in the Kennedy round for 3 years ending October 1, 1970—exports of cotton textiles from about 20 developing countries into the United States are restrained at a level currently running about 10 percent of domestic consumption.

An absolute quota that an exporting country applies to its own exporters is often called a voluntary quota. The cotton textile quota program, which as noted above is applied by exporting countries, was an outgrowth of a series of voluntary quotas. Almost invariably, however, such quotas are not voluntary. For example, the first postwar Japanese voluntary quotas were adopted in 1956 But they were accepted under direct threat of unilateral restrictive action by the United States.

The tariff quota, the second of the three types of quotas, provides that a fixed amount of imports may enter under one duty rate—perhaps even zero—but that imports above that amount must pay a higher rate. Establishment of a tariff quota can have a liberalizing effect on trade, if it represents a movement away from an absolute quota. In our first bilateral trade negotiations under negotiating authority given the President by Congress in 1934, the United States negotiated a number of tariff quotas.

The mink quota bill, S. 1897, envisions a tariff quota limiting imports to 40 percent of domestic consumption. Imports over that amount would be subjected to a tariff rate of 50 percent. The effect of the additional tariff charge would be that of a virtual embargo. Some critics regard it as having the same practical effect as an absolute quota bill, because imported pelts are for the most part of poorer quality than American pelts. Thus, furriers might find it cheaper to compete in the closed U.S. market for U.S. skins of high quality than to pay the new tariff quota duty on the lower quality imported furs.

The third variety of quota, the mixing quota, typically provides that domestic producers must use a certain percentage of domestic raw materials or manufactured components in their final products.

The mixing quota is a device the advanced countries tolerate in underdeveloped countries as a temporary measure to promote economic development. For example, Brazil requires that a certain percentage of the parts used by Brazil-based auto plants be made in Brazil. This encourages the development of a Brazilian auto parts industry.

Though perhaps defensible from the point of view of the developing country, the defense weakens when the mixing quota is applied by industrial economies, as in the Canada-United States Automotive Products Agreement of 1965.

The chief effect of quotas is to disrupt free market forces. This is true regardless of whether the quota is measured as a percentage of domestic consumption, or is a fixed quantity limit.

ECONOMIC EFFECTS OF QUOTAS

Quotas are advocated by their proponents as the best form of help for industries damaged by imports. Both advocate and opponents agree that quotas have pronounced economic effects on the market for the subject item: First, quotas immediately restrict the supply of the imported article; thus, second, the domestic price of the article under quota can increase; and, third, domestic consumption is reduced by the increased cost of the quota-protected product despite a potentially larger market.

Application of a quota is but one way

to isolate a given product from the world market in order to produce the above effects. A tariff can be so used, though it differs from a quota in important ways.

Other trade regulating devices include a wide variety of measures, such as marking and labelling requirements, government buying practices, customs valuation measures, discriminatory indirect taxes, and inspection requirements. All these can be used with prohibitive effects on trade, similar to the effects of a quota. But a quota is the device most often selected by those who wish to limit trade strictly, because it is so effective and because it can be so selectively applied to changing trade conditions.

Quotas have been aptly described by the noted international economist, Gottfreid Haberler, as "a nonconformable type of interference, a foreign substance, as it were, in the body of the free economy which necessarily leads to dangerous ulcerations and suppurations and threatens to weaken or undermine the individualist economy altogether."

Quotas have special disadvantages. By providing a fixed level of imports quotas place a fixed limit on competition. A quota thus allows domestic industries with monopolistic or oligopolistic tendencies to sell well above the international market without fear of the healthy economic discipline of import competition. Under tariff protection, on the other hand, the protected industry can sell only at the world price plus the tariff and other fixed charges.

Historically, global quotas create a disruption of the marketplace at the beginning of the quota period when there is an artificial incentive for the importer to enter as large a quantity of his product as possible before the guillotine falls. In this competitive rush, the bigger importers tend to get the lion's share.

When an allocated quota is applied, a further disruption of the world market occurs. The disadvantages of this disruption are apparent in the cotton textile quota program. In 1961 Japan had an efficient textile industry. When the textile quota program was instituted in that year, Japan enjoyed a major share of our market which became a vested share under the program. Subsequently—and in part because of this insured market in the United States—Japan has become a relatively high-cost producer in relation to other potential sources such as India and Pakistan. If the free market had been permitted to operate, Japan's share of our market would probably not be as large. Poorer, developing countries to whom we give foreign aid, like India, and Pakistan, would be able to sell more to us and thus be able to buy more of the things from us that they need in order to develop economically, and lessen the need for American foreign aid.

As this allocated quota system discriminated among producing countries, it discriminates among importers as well. Administration of a quota system is often accomplished through issuance of licenses up to the quota limit. The question of who gets the license or which importer gets the business, thus becomes a political one.

Government administrators would no doubt make every effort to allocate the licenses fairly, but no such administrative determinations can possibly match the swift, impartial operation of the marketplace. A licensing system based on a representative past period works an injustice. It discriminates in favor of established importing firms and against growing or new firms which have entered the market since the base period. It prevents competition among the importing firms. Though the importers' long-term interests may be opposition to all trade restraints, under the fixed system he suddenly discovers that he has a vested interest in his share of the allocated market.

This discrimination—among exporting countries and among importing businessmen—is inherently opposed to the long-standing goal of American trade policy that world trade should be conducted on a completely competitive basis. The marketplace should give equal trading opportunity to all comers, so that the efficiencies of competition can be realized.

In terms of internal economic policy, a quota necessarily represents a national decision that the protected producer is exempted from responsibility to compete in world markets.

This discussion of the operating effects is by no means complete. But it should serve to illustrate one final point: whether justified or unjustified, quotas are extremely difficult to dispense with. They are a kind of opiate, which, once indulged, becomes too sweet to deny.

POLITICAL EFFECTS

I have previously described how quotas operate to make products more costly, create economic rigidities, protect the favored recipient, stifle the operation of market forces, and create difficult problems of administration.

There are other effects of quotas that are of significant importance to our system of government. First, because quotas are a special measure from one industry to the exclusion of or at the expense of other industries, there is a natural tendency for them to proliferate. It is difficult to withhold from one industry a special favor that has been extended to another. It is more difficult if the economic merits and attendant policy guidelines do not clearly justify the special restrictive measure. The problem must be approached with the care and discrimination that should attend the conferral of a government subsidy, or a franchise.

Second, one industry's subsidy is often another industry's penalty. For example, the steel industry wants quotas for itself, but it opposes the ferroalloy industry's request for quotas, for the steel industry in its consumer role does not want to pay more for the ferroalloys it uses in making steel.

The petrochemical industry apparently wants quotas to protect the market for the manmade fibers it produces. In its consumer capacity, it vigorously opposes the independent U.S. oil industry's request for statutory quotas on oil, because oil quotas would raise the prices of the oil-derived feedstocks the petrochemical industry needs to keep competitive.

Neither a quota or a tariff insulate an industry from all competition. It still must face competition from competing materials within its own market. Just as manmade fibers compete with cotton fibers, so plastic, fiberglass copper, concrete, and aluminum have already begun seriously to compete with steel. Once seemingly protected in a domestic cocoon by a quota, the steel industry can expect renewed pressure from such competing materials, which would likely take advantage of steel's competitive sluggishness to further erode the domestic steel market.

Third, the burden of government oversight that would accompany a government-administered quota system is at best an unhealthy prospect. Already we have seen clearly demonstrated the increasing readiness of the Federal Government to involve itself in the affairs of industry. Decisions that once were accepted as the sole concern of business and were forbidden to government suasion such as pricing policy and investment, are now subject to more and more control by government. Do businessmen, labor representatives, and farmers really want to accept the demoralizing burden of pleadings and representations to government officials who will administer the special favors they seek?

The history of U.S. legislative action on the tariff is quite clear. After the Smoot-Hawley Act, Congress gave to the President the authority to negotiate tariffs. Tariffs should be lowered reciprocally, or they could be raised in emergency situations, but under strict criteria and carefully spelled out administrative procedures. Quotas could be used only as emergency devices to prevent severe damage to American industry.

The history of U.S. tariff law since 1930 makes clear that Congress chose to take itself out of the business of legislating tariff rates and quotas for specific commodities. Congress itself saw that the results were not clearly in the national interest.

In recent years there have been several serious derogations from this tradition, including the cotton textile quotas begun in 1961 and the meat quotas set in 1964. Once the principle that Congress will legislate special quotas for special industries again becomes established, the potential for abuse of the national interest should give us pause. The question is whether the Congress should involve itself with incessant pleas for trade adjustment through legislated quotas or whether the Congress should continue to examine in a cold light the real problems of industry and reinforce and update the procedural framework for redressing legitimate trade grievances.

AT A NEW CROSSROADS

The President's authority to negotiate tariffs has expired. New trade legislation is clearly needed, and it should come. This legislation studied by Congress in its proper committees can provide the opportunity to set procedures which will help industries which have demonstrated trade adjustment problems.

But the recent climate has not been conducive to such rational considera-

tion. After a long hiatus of silence, the administration at the highest levels has turned its attention to foreign trade policy, although—regrettably—these spokesmen have tended to polarize the issues into black and white, protection and free trade, evil and good.

Such oversimplification obscures reality. Where industries have difficult problems caused by foreign trade and where there is a proper role for constructive Government action it is the obligation of Congress to give these problems its full attention and consideration.

We stand at a historic crossroads in American foreign economic policy. The past 30 years have been marked by the progressive opening of the international marketplace to competition and to increased economic activity that has benefited all countries. The United States has been the leader in this progress. We have been among the leading beneficiaries.

At the same time there has been a slow, parallel growth of the use of quotas as "temporary" trade restrictive measures which threatens to balloon to wholesale proportions. Oddly enough, these quota restraints have been applied by the very administrations that have sought at the same time to reduce tariffs and open international markets. The many quota bills now before the Finance Committee of the Senate would completely reverse the momentum toward a freer international marketplace.

It is not enough for this administration vehemently to oppose the quota proposals now before the Finance Committee. While it must reaffirm once more its dedication to the principles of the marketplace and seek to perpetuate those principles in present foreign economic policy, it must do so with responsible attention to industries which may have legitimate problems of trade adjustment. Ignoring these legitimate problems can only result in increased pressures for improper measures of import restriction—such as quotas.

SAFETY REGULATIONS FOR TRANSPORTATION OF NATURAL GAS

Mr. LAUSCHE. Mr. President, in this morning's Washington Post there is published an editorial on the bill which was laid before the Senate last evening, S. 1166, entitled "Safety Regulations for Transportation of Natural Gas."

The purpose of the bill is to adopt Federal regulations which will require that those transmitting gas by pipeline make certain that the pipes are not corroded or broken down, thus endangering the public safety.

The bill, as submitted to the Committee on Commerce, covered what are known as distribution lines and gathering lines. Distribution lines are laid in areas where gas is sent directly into the homes and business places of consumers. Gathering lines are those pipes which are used by the producers in getting gas from the wells and finally into the distributing lines.

Unexplainably to me, the bill was amended so as to exclude the producers of gas. The bill now applies only to the distributors of gas.

I think that a serious mistake has been made. If we are aiming to provide safety to people on the highways as well as in their homes against the dangers that can come from corroded or broken down pipelines, that safety should be provided not only for those living in the neighborhood of the distribution lines, but also for those living in the neighborhood of the gathering lines.

Now the Washington Post editorial:

> The gas pipeline safety bill that comes to a vote in the Senate today needs to be strengthened by the addition of criminal penalties for willful violations by individuals and provisions for covering the so-called "gathering" pipelines.

Among other things, the editorial states:

> The "gathering" lines—the links between well heads and distribution points—were exempted in the bill reported out by the Committee on the mistaken assumption that they are to be found only in very lightly populated rural areas and therefore involve little danger. But in point of fact there are 243 gathering lines in the metropolitan Los Angeles area alone and several that run under the city of Cleveland.
>
> If the Senate is really concerned about protecting the public against gas pipeline explosions and fires, it will strengthen the bill reported out by the Commerce Committee by adding criminal penalties for willful violators and bringing all pipelines under the safety net.

The PRESIDING OFFICER (Mr. BURDICK in the chair). The time of the Senator has expired.

Mr. LAUSCHE. Mr. President, I ask unanimous consent to have 3 minutes more.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUSCHE. Mr. President, it is a mysterious situation when 63,000 miles of pipelines operated by producers are exempt from this bill.

A dissenting opinion was filed by me, joined in by Senators CANNON, BREWSTER, and HART. I will, at the appropriate time, offer an amendment to include in the bill the gas producers. If they are exempted from this bill, they will have been given, again, the privilege of such richness as they have enjoyed in the past several decades under the depletion principle of taxation.

In due time, I shall offer that amendment.

COMPLAINTS ABOUT AUTOMOBILE INSURANCE INDUSTRY

Mr. MAGNUSON. Mr. President, last week, Consumer Assembly 1967 met in Washington to pool information and ideas on consumer protection among delegates from numerous consumer organizations across the country.

One of the topics featured in the 2-day program was automobile insurance. The assembly heard from both critics and supporters of the present system of accident loss compensation.

As part of the program, my colleagues on the Consumer Subcommittee of the Committee on Commerce, the distinguished senior Senator from Maryland [Mr. BREWSTER], delivered a summary of the complaints about the auto insurance industry that have become familiar to us all.

Senator BREWSTER's speech does a good job of demonstrating what is wrong with auto insurance, and contains some helpful suggestions as well. In the knowledge that this subject is of great concern to the Senate, I ask unanimous consent that Senator BREWSTER's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR DANIEL B. BREWSTER BEFORE THE CONSUMER ASSEMBLY 1967, NOVEMBER 3, 1967

Mr. Sharp, panelists, ladies and gentlemen, I am extremely happy to participate in this program today.

Since last February, when I joined Senator Dodd in sponsoring the Federal Motor Vehicle Insurance Guaranty Corporation bill, an increasing amount has been said about the faults in our automobile liability insurance system. Considerable pressure has built up in both the House and Senate for some sort of reform.

This trend is most encouraging. As one who comes from a State where tremendous progress has been made in the fair regulation of the insurance industry, I am convinced not only of the existence of a problem, but also that a remedy eventually can be found.

The automobile insurance industry today involves $9.2 billion in annual premiums, 78 million cars, 98 million licensed drivers, and $12.3 billion in annual accident losses.

Small wonder, then, that concern over the operation of the industry is so widespread. All of us, after all, are potential claimants.

The problem before us today encompasses two issues: The need for Federal regulation, and the need to change the underlying tort system for distributing loss.

First, the complaints that suggest a need for regulation on the Federal level. The most widespread of these is a phenomenal rise in cost of insurance to the consumer. As the automobile insurance study of the House antitrust subcommittee points out, while the consumer price index for all items rose 10 points in the period 1960–1966, automobile insurance costs in many places are 30 percent higher than they were in 1960.

Specifically, in Chicago, a family with an 18-year-old son must pay $137 more a year for liability coverage than they did a decade ago. In Los Angeles, it's $85 more, in Buffalo, $75 more.

High rates for those who can get insurance coverage is one problem; but what about those who cannot get coverage, or whose coverage is cancelled? According to the insurance companies and certain State agencies, approximately 10 percent of registered automobiles are covered by no liability insurance at all.

Many of those without insurance have been subject to arbitrary cancellations or have been flatly denied coverage. Some are on the road today with the mistaken impression that they have insurance when actually they have none.

The insurance companies have stated that only one to two percent of auto insurance policies written in a base period have been cancelled or not renewed.

While at first this figure seems insignificant, I suggest it would be more meaningful to measure cancellations and non-renewals against those policies on which claims are filed or paid. If this were done, I believe the percentage would be much higher, for the irony of the situation is that it is just those who are forced to put their policies to use who often find themselves high and dry.

It is when we have an accident that we need coverage. Often the accident occurs after years of faithful payment of premiums. The automobile insurance system works in such a way, however, that the policyholder is often penalized whenever his insurance company is obliged to pay a claim. Sometimes the penalty is a higher rate; other times it is cancellation or non-renewal.

This system tends to start a vicious circle. When a man is refused coverage from a reputable company, he is forced to seek it from a high-risk, or less reputable firm.

Before getting into the question of high-risk companies, however, it is worth mentioning the aura of discrimination that surrounds the issuance of automobile insurance policies.

The October 15 issue of Forbes Magazine repeated a charge that has been made often in recent months: many minority groups find it extremely difficult to buy standard coverage at any price. Negroes are prominent on the list; in fact, it is suspected that insurance companies have "blackout maps," designating areas—especially urban ghetto areas—where they will refuse to write any insurance at all.

This situation has its comic aspects. Clergymen, for instance, are considered high risks because supposedly, they drive with the attitude that "the Lord will provide."

The problem of shoddy financial practices and bankruptcies in the high-risk segment of the automobile insurance industry is widespread and devastating in its effect.

Since 1960, there have been 78 known failures of companies writing auto insurance. These companies were chartered in 22 states, and half of them did business in states other than their home state.

These companies left over a million policyholders without protection.

Let me illustrate what this can mean to a consumer like you or me. A Marylander, the father of three, was involved in an accident which resulted in death to the other driver. This man's insurance company failed—leaving him to pay $32,000 in damages. He had to sell his house. A lien was attached to his salary. And the family of the deceased driver did not get its full compensation, and won't for a number of years.

There have been over 350,000 victims of automobile accidents who have received only partial settlement of their claims because of the failure of the other driver's insurance companies. More than $300 million in claims has never been paid off.

Recently, my secretary told me that her insurance company had gone out of business—without even informing her. As a result, she drove around for months unaware that she had no insurance at all. Had she suffered an accident during this time, she might be paying damages for the rest of her life.

I have received several letters complaining about another company, National Guild Insurance. One man informs me that he purchased a policy in October, 1965, only to have it cancelled in December, 1965, after he had paid $189. In 1966, the company went bankrupt, and because it was a mutual company, this particular policyholder now is being assessed the amount of $351.55. My secretary is being assessed a like amount, no small sum for the unsuspecting consumer.

By court order, in the State of Maryland, some 40,000 to 60,000 policy holders are being assessed one year's premium over four million dollars—due to the insolvencies of the mutual insurance companies they did business with.

High rates, cancellations, discrimination, inadequate claim service, bankruptcies—these are some of the apparent abuses that deserve regulation. We must recognize, however, that they are the symptoms, not the basic ills of the system we are examining today.

Regulation can be accomplished in part by the establishment of a motor vehicle insurance guaranty corporation, which would provide a guarantee, through an agency similar to the FDIC, for all qualifying insurance companies operating in interstate commerce. The bill I have co-sponsored would empower such a corporation to take a close look at the insurance company before giving it clearance for a guarantee.

Last year, Maryland passed a law establishing a motor vehicle liability security fund, which will pay the claims of third parties against persons whose insurance companies have gone bankrupt. The Federal Guaranty Corporation would go farther than this—it would pay the claims of insurance policyholders, in addition to those of third parties, in the event of a bankruptcy. This is an additional step I believe we must take.

The larger issue of our negligence-claim system will require a far more detailed probe than has been undertaken to date. As Forbes magazine and others have stated, the system is the true villain. It is wasteful and inadequate to the needs of our population.

In view of the magnitude of the insurance industry, we cannot fairly diagnose its faults without embarking on a massive study. It is my hope that such a study will be made at the highest level of government. The Department of Transportation is looking into this right now.

Also, beginning next winter, Congress will hold hearings on the automobile insurance industry, and thereby make a public examination of the many complaints we have received.

There is much we need to know. We need to know more about the effectiveness of existing State regulation; we need to know more about the varieties of abuses that I have spoken of today, and we need to know how the automobile insurance industry can be reformed to serve the needs of the consuming public better than it is doing today.

Thank you.

SELF-HELP FOR DEVELOPING NATIONS

Mr. HART. Mr. President, approximately 10,000 persons died from hunger this year in the state of Bihar, India. Accurate statistics are not available, but reports indicate that between 12 and 35 million Indians are bordering on starvation. India's former Minister of Agriculture, Mr. Subramaniam, in a speech here in Washington on October 17, 1967, said that between 35 and 40 percent of all Indian school-age children suffer some brain damage because of a diet deficient in protein. These are horrible indications that what the experts have been telling the Congress is coming true. For years we have been told that immediate action must be taken to forestall a famine of massive proportions which would affect hundreds of millions, possibly even billions, of persons by the early 1970's.

While these thousands are starving in India, and thousands more throughout the underdeveloped countries of the world, there is an almost unbelievable waste of a natural resource which could meaningfully and almost immediately assist them. In the oil-producing countries of the Mideast, almost 2 trillion cubic feet of natural gas is flared or burned off each year. But modern technology can economically convert this wasted natural resource into ammonia and its derivatives, the basis of a mixed fertilizer.

Recently I visited several countries in Asia. I saw the desperate need of these people. Certainly, I am no expert on the production of fertilizer, but last year on October 12, the Senator from South Dakota [Mr. McGOVERN] directed our attention to the vital necessity of increasing food production, particularly for India. Concurring in his suggestions at that time, I strongly recommended that Congress take action along these lines. On February 6, 1967, Congress received the President's message recommending that steps be taken in an international effort in the war against hunger. He stressed the need for programs which would reduce the level of food aid as self-help measures developed. The President said:

> No single nation or people can fulfill this common obligation. No nation should be expected to do so. Every country must participate to insure the future of all. Every country that makes a determined effort to achieve sufficiency in food will find our government, our technical experts and our people its enthusiastic partners. The United States is prepared to do its share.

This country has demonstrated this willingness over and over. The Marshall plan helped to reestablish a devastated Europe. More recently we have seen remarkable progress and economic stability developed in Taiwan and South Korea. Taiwan has almost been made completely self-sufficient because of the introduction of fertilizer and other self-help programs. Taiwan no longer is dependent on AID funds for its survival. Very soon South Korea will be free of its dependence on AID funds.

The administration is taking steps to assist India and to encourage other nations in the long-range development of a systematic and international approach to the problems of Indian agriculture. The United States also is engaged in an immediate effort to help India with its present needs for food. However, I am disturbed because a full year has gone by and no action has been taken on Senator McGOVERN's proposal.

King Hussein of Jordan is in Washington this week to discuss the problems facing his country and that of the other Arab nations. Clearly this is an opportune time again to suggest a proposal which would have far-reaching effects, both for Jordan and the other Arab nations. In fact, meaningful negotiations to establish a multinational corporation which would produce a mixed fertilizer at a location on the Gulf of Aqaba could aid not only in economic but political stability for the troubled Middle East. Certainly it would be a starting point which would have attractive advantages to all the parties in this distrubed area. Jordan has rich deposits of phosphates and potash, two of the ingredients of fertilizer Israel is mining and developing the phosphates of the Dead Sea. Facilities to convert the natural gas—which is now being burned at a rate in excess of 5 billion cubic feet per day—into ammonia at a location contiguous to the phosphate and potash would bring to India and to all of Asia a vast supply of fertilizer at the most economic price. This program would be attractive to India not only because it would supply the needed fertilizer, but India has manu-

facturing capabilities which would enable her to produce probably 50 percent of the industrial complex and thereby qualify as a full partner in the multinational development. An even more attractive feature of this proposal is that India has millions of rupees in counterpart funds which could be used to finance her part of the development.

To sum up this proposal, a feasibility study should be made to determine how a major pilot project could be established on the Persian Gulf to convert the natural gas of the oil-producing countries into ammonia. This could be combined with the phosphates and potash of Jordan and Israel and subsequently made available to the developing countries of Asia. The United States must take the lead in such a project by providing financial and technical assistance.

Hunger in the poor nations, long ignored by the rich, is increasing. And the world is getting an early preview right now of the food crisis that was supposed to be two decades off. The time for action is right now. If we took steps to put this proposal into being today, it would be at least 2 years before any meaningful results could be achieved. The longer we wait, the more costly it will be to meet the situation in the 1970's—both in terms of human suffering and in dollars required to help relieve it.

The serious considerations of solutions to the food problem in Asia cannot be shoved aside or delayed. The political and nationalistic antagonisms of the Middle East should certainly be transcended by humanitarian needs. The President very pointedly called attention to this when he said:

> The first obligation of the community of man is to provide food for all of its members. This obligation overrides political differences and differences in social systems.

All of the present plans, efforts, and programs should continue in an effort to reach the long-term objectives. However, this program should be an additional effort undertaken at the earliest possible moment.

The national interest of this Nation, and indeed the national security, will be served by our taking affirmative action to implement the use of these natural resources in the name of humanity. We must not wait until the 1970's to act, for the world by that time could face a more terrible disaster than any in the history of man.

THERE IS MUCH MORE THAT IS RIGHT

Mr. BOGGS. Mr. President, we are so well aware of the problems the Nation faces—of the goals we have yet to reach—that it is easy to forget how far we have come.

Also, we hear so much criticism of our Nation by citizens of other countries that we tend to overlook the fact that we do create favorable impressions on many of those who examine us closely.

This first point is covered in an editorial published on November 2 in the Morning News of Wilmington, Del.

The second is evident from reports I have seen which Irish teachers wrote after participating this past summer in an Irish international teacher development program at the University of Delaware.

These teachers comment favorably on our education system, on our family life, and on the general friendliness of our people.

One teacher wrote:

> Prior to my American trip I was under the impression that in such an affluent society there would be an almost universal unconcern for the poor and deprived people; that human and social problems would be literally "swept under the carpet." How wrong I was! Those with whom I came in contact, and I made it my business to interview a cross section of the community, were very much aware of the plight of their less fortunate countrymen and quite a number of them were actively engaged in trying to alleviate the sufferings of the underprivileged.

Another report noted:

> My previous concepts of American life have been substantially changed. One of the chief popular sources in Ireland of information on American life is the movie and unfortunately the type of life portrayed in these imported movies is generally a superficial and disinteresting one.

My point is that on one hand things are not as dismal as they sometimes seem, and on the other we tend to make a better impression of foreign observers than we would suppose from the amount of American criticism we see and hear.

I ask unanimous consent that the editorial, entitled "There's Much More That's Right," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wilmington (Del.) Morning News, Nov. 2, 1967]

THERE'S MUCH MORE THAT'S RIGHT

An American sailing for home after a two year sojourn in Europe was reported by the New York Times the other day as a "reluctant" returneee. News dispatches reaching the continent, a disturbing melange of protest, disorder, civil outrage, crime, pickets, poverty and campus carryings on have conveyed an impression that the life in the U.S.A. has reached disaster levels and that our national resources have been dissipated beyond repair.

Well, now. Our traveler, once he has had time to look around, may wonder just how he got any such idea of imminent calamity. A sober look at the facts will offer substantial reassurance. If there is much that needs correction in the U.S., there is much that is right and much for which we can give thanks.

Unemployment has fallen to a new low of 4 per cent and among married heads of families, an astonishing 1.8 per cent. Even the rate for Negro adult males, an area which has caused wide concern, was reported as 3.8, an historic low.

If, after so many years, such accomplishments are taken for granted, let it be remembered that joblessness is the reef on which many nations have foundered and many a free society enslaved. Our industrial establishment is productive, vigorous and endlessly innovative.

Noisy recalcitrants on college campuses to the contrary, the nation now supports the largest student body ever assembled in institutions of higher learning—with a larger proportion of students going to college than was ever believed possible. If teachers cry loudly in some areas for higher pay, millions of kids are attending classes; if here and there we are dissatisfied with educational quality, it still ranks far beyond that offered in most of the world.

If our facilities for medical care have their deficiencies, they are still the best and most extensive in the world and our life expectancy rises continually to levels unheard of a quarter century ago.

The objectionable abuses of traditional public expression, whether at the Pentagon, at Berkeley or elsewhere are after all the work of a miniscule minority. America's saving characteristic in all kinds of rough weather has been its invariable movement toward the center. There is ample evidence that this motion, rejecting extremes and censuring violators is still operative.

America, happily, has been singularly free of the extra-legal approaches which are commonplace in a Europe inured to coups, general strikes and popular uprisings such as that which threatened France in 1958 when De Gaulle came to power. Here the democratic processes prevail and in no other country is government so responsive or so attentive to popular will.

Our traveler will see, as he studies the whole record, that the alarms which dismayed him abroad are in many areas the product of rising aspirations, of goals that can be in sight only because our earlier aims have been so abundantly fulfilled. Others represent the articulated chorus of avowal that is after all an American tradition. And still others are simply the exhibitionistic fringe of the social misfits.

It is unfortunate that the privileges we Americans enjoy distort the image of our national condition. Residents as well as disturbed expatriots will do well to look beyond the shadow into the substance.

TEXANS WRITE ABOUT TAXES

Mr. TOWER. Mr. President, a week ago the President appealed to the people of the United States to write to their Congressmen in support of his desire to place a 10-percent surcharge on income taxes. I can report today that the President's speech certainly did stir up a sizable flow of mail from Texas. And, while that flow is continuing, I think an interim report is in order today.

I have been receiving between 40 and 50 letters about taxes each working day. So far I have received two from Texans who want their Federal taxes increased. I have, however, gotten a total of three from constituents who will accept a tax increase if Federal spending is cut.

To be perfectly fair, I should mention also that I have received more than 150 letters in the last week which oppose a tax increase without mentioning the President's request for letters to Congress. And, through today's mail, I had received 57 anti-tax-increase letters addressing themselves specifically to the President's appeal. I would like to share with the Senate some of the views from those 57 letters:

> "The President has requested that I write you and, as he put it, 'apply pressure'. I'm not sure how I should apply pressure since I don't believe in rioting, looting, burning, sitting-in, lying-in or even loving-in. Just vote no."
>
> "L. B. J. asked me to write you. I feel that reduced Federal spending and not increased taxation is the answer to inflation."
>
> "With reference to the President's plea, I oppose it very strongly."
>
> "A tax increase is merely a stop-gap proposal which fails to get to the heart of the problem."
>
> "This is not answer to our country's financing dilemma."

"It would not help fight inflation, since the government wants to spend the money."

"L. B. J. must think all the people are fools."

"The President wants my feelings expressed to you 'loud and clear.' I'm against it."

"This government by concensus and taxation is not very good."

"Let him cut his spending."

"Do not add to our already heavy tax load."

"I can pay the tax, but I have friends whose take-home pay just will not be adequate."

"I am unalterably opposed, period."

"By all means vote against more taxing of working people."

"Frankly, I am against his proposal."

"Any tax increase not used to retire debt can only add to consumer expenditures, subtract from savings and result in more inflation."

"My views are opposite to his."

"Defeat L. B. J.'s tithe."

"We don't need more taxes. We need less taxes, less waste and less baloney."

"People are taxed to death and are sick and tired of it."

"He shouldn't think the taxpayer is a happy slob content to have his earnings always diluted."

"I was asked to write you. So be it. Vote 'No.'"

CHINESE AGGRESSION: OFT REPEATED MYTHS

Mr. GRUENING, Mr. President, to bolster the ever-increasing U.S. military involvement in Vietnam, administration spokesmen have, from time to time, raised the specter of the aggressive, Communist China, armed with nuclear weapons, determined to conquer and keep under its subjugation the rest of the world.

On April 17, 1965, in his now famous Johns Hopkins speech, President Johnson said:

Over this war—and all Asia—is another reality: the deepening shadow of Communist China. The rulers in Hanoi are urged on by Peiping. This is a regime which has destroyed freedom in Tibet, which has attacked India, and has been condemned by the United Nations for aggression in Korea. It is a nation which is helping the forces of violence in almost every continent. The contest in Vietnam is part of a wider pattern of aggressive purposes.

Why are these realities our concern? Why are we in South Vietnam?

More recently, at his news conference, Secretary of State Rusk put the yellow menace in the following words:

Within the next decade or two, there will be a billion Chinese on the Mainland, armed with nuclear weapons, with no certainty about what their attitude toward the rest of Asia will be.

Now the free nations of Asia will make up at least a billion people. They don't want China to overrun them on the basis of a doctrine of the world revolution.

Mr. Oliver M. Lee of the political science department of the University of Hawaii has written a most illuminating article in the Nation for November 6, 1967, entitled "The Myth of Chinese Aggression" in which he totally destroys the image of a militarily aggressive Communist China ready to send its troops across the borders of all the nations of Southeast Asia on a bloody crusade of conquest.

Those supporting the theory of an aggressive Communist China cite four instances of Communist China's military action: Tibet, Korea, and India and the threats to Taiwan.

Mr. Lee analyzes each of these instances and comes to the conclusion that—

If aggression be defined as the initiation of military attack by one sovereign state against the territorial integrity of another sovereign state, Communist China did not commit aggression or plan aggression in any of the cases just mentioned.

With respect to Tibet, Mr. Lee cites the fact that "for 250 years no government in the world has recognized Tibet as an independent nation" and cites a note sent to the British by the U.S. Government as far back as 1943 in which it was stated:

The Government of the United States has borne in mind the fact that the Chinese Government has long claimed suzerainty over Tibet and that the Chinese constitution lists Tibet among the areas constituting the territory of the Republic of China. This Government has at no time raised a question regarding either of these claims.

Mr. Lee reminds his readers that Chiang Kai-shek supports Communist China in its claims to sovereignty over Tibet.

As for Korea, Mr. Lee points out that China did not enter that fight until "the United Nations forces under General MacArthur's command were approaching the Chinese border at the Yalu River" and concludes that—

The circumstances were such that China was acting to avert a serious threat to its national security, and that such action proves absolutely nothing about the existence of territorial ambitions or other expansionist aims.

Taiwan—

Mr. Lee notes—

has been part of China from 1683 to 1895, when it was ceded to Japan by the defeated and tottering Manchu dynasty. Decades later, at the Cairo Conference of 1943, Roosevelt, Churchill and Chiang Kai-shek agreed that "all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa and the Pescadores, shall be restored to the Republic of China.

Discussing the border dispute between Communist China and India, Mr. Lee notes:

The disputed areas do not clearly belong to either India or China; but China's claims are at least as good as those of India . . . all official British maps of British, India, prior to 1914, show the presently disputed Himalayan region to be within China. Britain in 1914 unilaterally claimed that region, but not until 1937 did it have the audacity to change its maps accordingly.

It is essential that the people of the United States bear these facts in mind as they seek to evaluate the administration's attempts to link the increased U.S. military involvement in Vietnam as an attempt to offset "the specter of the yellow peril, in Red garb."

I ask unanimous consent that the article by Mr. Oliver M. Lee entitled "The Myth of Chinese Aggression," appearing in the Nation for November 6, 1967, be printed in full in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Nation, Nov. 6, 1967]

THE MYTH OF CHINESE AGGRESSION

(By Oliver M. Lee)

(NOTE.—Mr. Lee, who is a member of the Political Science Department of the University of Hawaii, is completing a book on the general subject of the present essay.)

Unable to defeat the incredibly tenacious guerrillas in South Vietnam, the Johnson Administration in February, 1965, carried the war to North Vietnam through systematic air attacks, on the pretext that the Vietcong were controlled by Hanoi, which therefore was more truly the enemy to be subjugated. But even this enemy's "aggression" was viewed as only the surface manifestation of a much more powerful menace. Specifically, President Johnson in his 1965 Johns Hopkins speech claimed to perceive, hovering over the Vietnamese War and all of Asia, "another reality: the deepening shadow of Communist China." More recently, of course, Secretary of State Dean Rusk has taken the same line.

The image of a ruthless, irrational and aggressive Chinese Communist regime had been peddled in the United States from the beginning, mostly by private and Congressional sources rather than by the Administration. But by 1965, the Administration itself deemed it necessary to fan the flames of anti-Chinese Communist hysteria. The identification of China as the main enemy now serves the same function in the Vietnamese War as our allegations of North Vietnamese aggression had done earlier. In each case the alleged existence of a newer, larger, more real enemy provides an excuse for our inability to crush the initial, smaller enemy. In each case, furthermore, the increasing villainy of the "real" enemy provides a justification for turning our wrath and firepower upon him. In the case of North Vietnam, this has already been done; in the case of China, only time will tell whether the United States will choose that terrifying option.

The specter of the yellow peril, in Red garb, being deemed useful by the Johnson Administration, the publication in September, 1965, of an article by China's Defense Minister Lin Piao titled "Long Live the Victory of the People's War!" was most opportune. Although most of his points had been made by Peking often before, this was the first major foreign policy statement by Lin Piao in his six years as Defense Minister. The article was vitriolic in its condemnation of U.S. imperialism. It repeated some of Mao Tse-tung's vivid phrases, such as "political power grows out of the barrel of a gun" and "all reactionaries are paper tigers," and vigorously encouraged resort to revolutionary violence, people's war, and even world revolution.

It so happens that all of Lin Piao's references to justifiable violence dealt with autonomous and self-reliant revolutionary movements within nations, particularly in Asia, Africa and Latin America. Not a single sentence by Lin Piao can be construed as threatening Chinese military action aimed at the "liberation" of the people of another country. But the American Government was not to be denied its opportunity to hang a picture of an expansionist China on the slender pegs of militant Chinese words twisted and taken out of context. Thus McNamara smeared Lin Piao's article by crisply declaring: "It is a program of aggression. It is a speech that ranks with Hitler's *Mein Kampf*." Dean Rusk chimed in by allowing that Lin's article "is as candid as Hitler's *Mein Kampf*." Not content with linking China with the horrors of Nazi aggression in Europe, McNamara went so far as to warn the European members of NATO that "they

should plan now to meet a Chinese Communist threat to their own security within five years."

True, some U.S. officials will concede that China's militancy is in support of indigenous revolutions in the underdeveloped world rather than a threat of military invasion. Assistant Secretary of State William Bundy, contradicting his superior, said that "to describe these objectives as deeply expansionist is by no means to paint the picture of another Hitler." Rather, he held, Peking aims at "the instigation and support of movements that can be represented as local movements, designed to subvert and overthrow existing governments." Yet Bundy could not resist prognosticating that China would use conventional military forces in its expansionist efforts "if it were required," and he reminded his audience of China's "threat" against India. He thereby conveyed the idea that old-fashioned military aggression, though not the preferred method, is nonetheless one of the instruments of Chinese foreign policy.

"Aggressive statements" by the Peking leaders, then, are one of Washington's main justifications for expressing concern about the possibility of future Chinese aggression, and for maintaining a policy of containment. "We should take the Chinese Communists at their word," admonishes McNamara. A Defense Department pamphlet for "information and education" puts it in zoological terms: "We *would* not ignore the buzz of a rattlesnake! . . . We *must* not ignore the roar of the dragon!" I shall take up in a moment the content of Peking's militant propaganda.

Another major reason for American fear of the yellow hordes is an alleged record of actual Chinese Communist aggression over the past eighteen years. Specific cases usually cited are those involving military action against Tibet, Korea and the Sino-Indian border, and threatened action against Taiwan. Such extrapolation from a series of past aggressions is sound in principle, but it becomes worthless if the premise of past aggressions is false, which is demonstrably the case.

The truth is that if aggression be defined as the initiation of military attack by one sovereign state against the territorial integrity of another sovereign state, Communist China did not commit aggression or plan aggression in any of the cases just mentioned. I make this assertion on the basis of evidence available but little known in the United States, and by the application of fundamental principles of international law. Following is a brief analysis of each actual or potential crisis.

Tibet. This vast plateau came under Chinese suzerainty in 1720, and in terms of international law has been part of China from that time to the present. This is true despite the fact that between 1911 and 1950 successive Chinese central governments were too weak actually to control Tibet; during those years, it should be recalled, many other regions of China were ruled by warlords who were also independent of the central government. For 250 years, no government in the world has recognized Tibet as an independent nation. As for the United States, in 1943 the State Department succinctly reminded the British that "The Government of the United States has borne in mind the fact that the Chinese Government has long claimed suzerainty over Tibet and that the Chinese constitution lists Tibet among the areas constituting the territory of the Republic of China. This Government has at no time raised a question regarding either of these claims." Even India, the one nation which, besides China, has the greatest reason to be interested in the legal status of Tibet, in 1954 concluded a treaty with Peking on "Trade and Intercourse Between Tibet Region of China and India." It might be added that our Nationalist allies on Taiwan are every bit as adamant as the Communists about China's title to Tibet.

The People's Liberation Army did enter Tibet in 1950 and did use force to put down sporadic rebellion there. There is no doubt that the Peking government has drastically uprooted the feudalistic social and economic structure of Tibet, replacing it with the Socialist system that prevails in the rest of China. Social revolution of such intensity inevitably brings about much dislocation and suffering, and one's judgment of whether such revolution represents progress or whether the progress is worth the price depends on one's value system. But a negative judgment of the revolution does not entitle one to label as military aggression the advent of the Chinese Revolution in a region that has long been internationally recognized as an integral part of China. Federal troops enforcing the Constitution in Mississippi must similarly be absolved from any charge of aggression.

Korea. Five months after the outbreak of the Korean War in 1950, as the United Nations forces under General MacArthur's command were approaching the Chinese border at the Yalu River, 300,000 Chinese troops astounded the world by entering the war. They smashed through the center of MacArthur's line, and in a matter of weeks pushed the UN forces out of North Korea and south of the 38th Parallel. Thereupon the General Assembly, by overwhelming majority vote, declared Communist China an aggressor.

From the legal standpoint, this charge of Chinese aggression would be well founded if—but only if—it could be established that North Korea, the recipient of Chinese assistance, had committed aggression in the first place. This cannot be done. The proposition that North Korea initiated the military action resulting in the Korean War has been widely accepted in the non-Communist world on the assumption that an impartial United Nations commission happened to be on the scene and witnessed the outbreak of the war. In reality, the UN field observers had traveled along the 38th Parallel from June 9 to June 24, returning to the capital one day before the alleged North Korean aggression, which they therefore did not witness. The initial cable from the commission, reporting an attack by North Korean forces, was based purely on allegations by the South Korean government.

In view of South Korean President Syngman Rhee's frequent threats to unify Korea by war, and MacArthur's promise to him in 1949 to "defend South Korea as I would defend the shores of my own native land," the alternative hypothesis of a South Korean military attack with the aim of provoking a strong counterattack is plausible. And what are we to think of John Gunther's report that at MacArthur's headquarters the first words on the war, uttered by an "important" official, had been: "A big story has just broken. The South Koreans have attacked North Korea!"?

Another problem lies in the fact that North and South Korea were legally one nation rather than two, and that therefore any military action between them, initiated by whomever, constituted civil war, to which the concept of international aggression is not applicable. Korea is one nation not only in historic, cultural and ethnic terms but in 1950 was viewed as one nation even by the two Korean regimes and the two postwar military occupation powers (the United States and Russia), and by the UN General Assembly. Each Korean government has claimed to be *the* government of all Korea, the Southern claim being reflected in the fact that in the May, 1950, legislative election in South Korea, one-third of the seats were kept vacant, to be filled by future delegates from the North.

If North Korea cannot be shown to have committed aggression, it follows that China was not an accomplice thereto. But even assuming, for the sake of discussion, that Peking did commit aggression in this case, I submit that the circumstances were such that China was acting to avert a serious threat to its national security, and that such action proves absolutely nothing about the existence of territorial ambitions, or other expansionist aims.

No government worthy of the name would, under similar circumstances, have failed to come to the rescue of a friendly buffer region that was in the process of being eliminated by the most powerful nation on earth—a nation which also contained influential factions extremely hostile toward the government in question. The depth of such hostility in the United States was revealed when Secretary of the Navy Francis Matthews, on August 25, 1950, advocated "instituting a war to compel cooperation for peace. . . . We would become the first aggressors for peace." *The New York Times*'s military analyst reported that Matthews' speech was a "trial balloon" backed by Secretary of Defense Louis Johnson, "who has been selling the same doctrine of preventive war in private conversations around Washington."

It is true that Johnson resigned soon after this report, and that Truman exerted strong influence, both before and after China's crossing of the Yalu, against expanding the war into China. But Peking had no guarantee that in the power struggle in Washington the "hawks" like MacArthur, Dulles and Louis Johnson would not gain control. A Korea unified through American military power, with the supine acquiescence of China, would have constituted a powerful link in the chain of encirclement the United States was engaged in forging against China.

Taiwan. Here the problem is not the waging of actual warfare but Communist China's implied assertion that it has the right to use force to gain control of Taiwan. "By all suitable means at a suitable time" is Peking's way of putting it.

Taiwan has been a part of China from 1683 to 1895, when it was ceded to Japan by the defeated and tottering Manchu dynasty. Decades later, at the Cairo Conference of 1943, Roosevelt, Churchill and Chiang Kai-shek agreed that "all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa and the Pescadores, shall be restored to the Republic of China."

In practice, the island was returned to the Middle Kingdom when Chinese Nationalist troops accepted the surrender of the Japanese garrisons, so that in 1950 Secretary of State Dean Acheson was able to report: "The Chinese have administered Formosa for four years. Neither the United States nor any other ally ever questioned that authority and that occupation." The U.S. officially continues to regard Taiwan as part of China, as does the Chiang Kai-shek government in its vain attempt to play the role of *the* government of China and the protector of its territorial integrity.

If Taiwan is acknowledged to be part of China, it follows that the government of China, on the basis of the principles of national sovereignty and territorial integrity, has the legal right to use force to unify Taiwan with the mainland; whether Peking will actually do so remains an open question. As for those, like the United States Government, who refuse to accept the legitimacy of the Peking government, the only alternative to such acceptance is to regard the Chinese Communists as a rebellious faction trying to replace the legitimate "national" government located on Taiwan. And even such an interpretation cannot be used to bolster a charge of aggression, as there is nothing in international law which prohibits rebellion or revolution, forceful or otherwise.

The Sino-Indian Border. Twenty thousand Chinese troops in October, 1962, poured southward through the Himalayan Mountain passes, and within thirty days penetrated 85 miles behind Indian front-line positions. *The Washington Post*, in an editorial titled "World War III?" ventured that "perhaps

no aggression since World War II holds so large a threat to the peace, safety, independence and security of other lands." *The New York Times* feared that the Chinese action "could engulf India and menace all Asia and the world."

Before the ink was dry on that editorial, Peking announced a unilateral cease-fire and promised to pull its troops back to their original positions north of the Himalayan crest. *The New York Times* found this "startling and puzzling in the extreme," as well it might, having twenty-four hours earlier reminded its readers that India was once conquered by Mogul emperors descended from Genghis Khan and Tamerlane, and asserted that "any Communist rule would be far more brutal than theirs."

Did the Chinese military action, temporary though it was, constitute a "brutal invasion," as Nehru cried? A "naked and large-scale aggression," as Defense Minister Krishna Menon asserted? To answer these questions requires some background in the diplomatic history of the border dispute.

The respective claims to the border areas between China and India are of mixed validity. On the basis of old maps, old treaties, administrative history and other technical aspects, the disputed areas do not clearly belong to either India or China; but China's claims are at least as good as those of India. To cite just one type of evidence favoring the Middle Kingdom: all official British maps of British India, prior to 1914, show the presently disputed Himalayan region to be within China. Britain in 1914 unilaterally claimed that region, but not until 1937 did it have the audacity to change its maps accordingly.

Peking's basic position has been that no valid treaties exist for defining the boundaries between the two countries, and that therefore a treaty should be negotiated. U.S. Secretary of State Christian Herter in 1959 tended to support the Chinese in this by saying: "The border, as you know, has been for many years pretty ill defined." India's attitude, in contrast, was that it knew exactly where the boundaries were, that no negotiations were necessary, and that Chinese troops were sitting on part of Indian soil and should remove themselves.

Since the Chinese considered that same area to be theirs, they saw no need to leave, unless as a result of a negotiated border treaty. India thereupon embarked on a prolonged military campaign, in which it boasted of having "reclaimed" 2,500 square miles from the Chinese north of the Karakoram Range. The Indian troops accomplished this by means of marching up to the Chinese frontier posts and occupying them after Mao Tse-tung's troops, in every single case, pulled back without a fight.

It is these facts which led Congressman Sikes of Florida to ask General Maxwell Taylor, then chairman of the Joint Chiefs of Staff, in a Congressional hearing in February, 1963: "Let me talk about the Red China and the Indian operation. Did the Indians actually start this military operations?" To which Taylor replied: "They were edging forward in the disputed area; yes, sir." At this point the testimony was censored out of the public transcript.

The "edging forward" by Indian troops occurred not only in the western corner of India's frontier with China but also in the eastern corner where the New Delhi government asserted the validity of the McMahon Line. Peking, while denying its validity, was willing to respect that line provisionally, pending a negotiated settlement. But Indian troops, in places, penetrated even to the north *that*, on the ground that "blind adherence" to the McMahon Line was not as proper as seeking out a border conforming to the "principles" that Sir Arthur Henry McMahon had in mind when drawing the line in 1914. These two types of penetration, backed up by Nehru's order of October 12 to push the Chinese out of all "Indian territory," constituted the provocations against which China retaliated.

Such, then, has been Communist China's behavior in terms of major military action carried out or contemplated. Its behavior in the propaganda realm, which is also used in an effort to prove Chinese Communist expansion, has likewise been grossly distorted in the non-Communist world, and even in the Soviet orbit.

To revert to Lin Piao's 1965 article, for example, while it is true that he urged the violent overthrow, through "people's war," of explosive systems in Asia, Africa and Latin America, he did not threaten to use Chinese troops to this end. On the contrary he has a section, titled "Adhere to the Policy of Self-Reliance," in which he points out: "The liberation of the masses is accomplished by the masses themselves—this is a basic principle of Marxism-Leninism. Revolution or people's war in any country is the business of the masses in that country and should be carried out primarily by their own efforts; there is no other way." Interestingly enough, McNamara, in his 1966 testimony before the Senate Armed Services Committee, inserted 3 pages of excerpts from Lin Piao's article, but omitted any reference to this self-restricting aspect of Peking's foreign policy.

It is often asserted in the West that the Chinese Communists regard world war to be inevitable. From this it is inferred that Peking is dangerous because it thereby acquires an incentive to choose the right circumstances to set off a world conflagration. The truth is that Peking agrees with Moscow that "the Communists must work untiringly among the masses to prevent underestimation of the possibility of averting a world war." Do the Chinese Communists desire world war, as it is often asserted? Peking says, "No Marxist-Leninist has ever held or ever will hold that revolution must be made through world war."

But, it may be asked, is it not a fact that the Chinese Communists have said in so many words that "wars are inevitable"? So they have, but not world war. What about lesser wars between nations? Peking again agrees with Moscow that "it is possible to combat effectively the local wars started by the imperialists and to stamp out successfully the hotbeds of such wars." But what they do regard as inevitable are revolutionary and counterrevolutionary wars, anti-colonial wars and "imperialist wars of suppression against colonies and semi-colonies," as long as capitalism exists. Among these types of wars, Mao and his colleagues of course favor revolutionary and anticolonial wars, but this in no way represents an announced Chinese policy to expand, to invade, to conquer, to rule or to dominate, either before or after a successful revolutionary or anti-colonial war. What they have announced, instead, with regard to about forty non-Communist nations, is that "it is absolutely impermissible and impossible for countries practicing peaceful coexistence to touch even a hair of each other's social system." With many of these, particularly with the neutralist nations closest to China, and therefore, the most easily "dominated," such as Afghanistan, Pakistan, Nepal, Burma and Cambodia, Peking has in fact signed treaties incorporating the "five principles of peaceful coexistence," thereby committing itself not to interfere with the territorial integrity and sovereignty of the smaller nation. Treaty commitments do not necessarily reflect actual behavior, and Prince Sihanouk's recent charge of "extraordinary interference" by Communist China in Cambodia's affairs bears watching in this regard. But we are dealing here with the allegations that Peking, in a manner as frank as that of Hitler's, has announced a program of aggression, domination, etc. Demonstrably it has not.

One final canard is the charge that rulers of China regard nuclear war as inevitable and indeed desirable, and that they are ignorant of the destructive power of nuclear weapons. What Peking actually says is that "the complete banning and destruction of nuclear weapons is an important task in the struggle to defend world peace." They acknowledge that "nuclear weapons are unprecedentedly destructive." And we have it on the authority of Morton H. Halperin, a foremost American expert on Chinese nuclear strategy, writing in *China and the Bomb*, that "the Chinese have never claimed that nuclear war is inevitable."

Though regarding such a war as avoidable and as highly destructive, have not the Maoists nevertheless boasted of a readiness to start a nuclear war on the ground that, on balance, capitalism would be damaged more than communism? The answer is, again, No. On the occasion of China's first nuclear explosion, in October, 1964, Peking sent a letter to all governments in the world, stating: "The Chinese Government solemnly declares that at no time and in no circumstances will China be the first to use nuclear weapons." Washington, in contrast, has persistently refused to make a similar pledge, and has rejected Peking's call for prohibition of nuclear weapons as a "smoke screen."

In the absence of Chinese Communist threats to use either conventional or nuclear power to impose its domination on any other country, it is nonsense for the Defense Department to invoke the image of "the buzz of a rattlesnake." With the Chinese leaning backward to make legal and political commitments, on a reciprocal basis, to respect the sovereignty and territorial integrity of other nations, conjuring up the image of a roaring dragon is simply another Establishment attempt to brainwash George Romney along with the rest of the American people.

THE NATIONAL GRANGE CENTENNIAL

Mr. CARLSON. Mr. President, the National Grange, the Nation's oldest farm organization, is celebrating 100 years of progress and achievement this month with its centennial session and celebration in Syracuse, N.Y., November 13 to 22.

I should like to pay personal tribute to Herschel D. Newsom, the master of the National Grange; to James W. Ingwerson, master of the Kansas State Grange, from Leroy, Kans.; and to the more than 620,000 Grange members in Kansas and throughout the Nation on this centennial celebration. I extend my sincere congratulations for your continuing efforts in trying to secure an equal and proud place for the American farmer in today's American society.

The story of the National Grange has been a historic story of success in helping to form our great American heritage. The Grange provided the American farmer responsible leadership at times when the very future of American agriculture was at stake. This proud organization was born in the aftermath of the American Civil War and at a time when social and economic change swept over the American farmer and left him and his family in a wake of confusion and despair.

However, through rugged determination, integrity and human concern based upon our religious heritage, the National Grange met the crisis and provided leadership from which the American farm

family built a rural heritage of great accomplishment, mutual dignity, and self-pride.

Now our Nation is once again faced with social and economic change that threatens American agriculture and again the National Grange stands ready to meet this challenge and provide the pioneering spirit that, I am sure, will lead rural America into a new era of plenty.

Today the agricultural segment of our economy faces problems that court real disaster. A traditional way of life may be lost to the Nation unless vigorous corrective action is taken. We must provide the economic and social opportunities in our rural areas to end the mass migration to the cities; to once again make rural America an attractive and self-satisfying place in which to live.

Just as the National Grange provided many ideas and programs that gave American agriculture new lifeblood in the past, it today is continuing to seek answers to such problems as the cost-price squeeze and the mass exodus of farmers to the cities.

I am confident the National Grange, with the help of farmers everywhere, will provide the thought, the effort, and the action to face these challenges.

Again, I extend my congratulations to the National Grange on a job well done. Let American farmers continue in the next 100 years to work together to reap the harvest of American agriculture—the national heritage of which we are proud and from which a new and exciting America can face the future with confidence and pride.

RESOLUTIONS OF FEDERATION OF WESTERN OUTDOOR CLUBS

Mr. JACKSON. Mr. President, the Federation of Western Outdoor Clubs is an organization established in 1932 for mutual service and for the promotion of the proper use, enjoyment, and protection of America's scenic, wilderness, and outdoor recreation resources. Eighteen of the member clubs are from my own State of Washington.

At the federation's 1967 meeting, 33 resolutions were adopted. I believe the breadth of interest reflected by these resolutions gives testimony to the public-spirited concern of the federation. For the information of Congress and the Nation, I ask unanimous consent that the resolutions be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

FEDERATION OF WESTERN OUTDOOR CLUBS
RESOLUTIONS, 1967

RESOLUTION 1. NORTH CASCADES

In previous years the Federation has passed several resolutions calling the attention of the public to the North Cascades, and urging protection of its superlative scenery in the form of a large national park and several wilderness areas.

This year the Federal Administration has also recognized the scenic and wilderness values of the North Cascades, and has called for protection of portions of the area in a North Cascades National Park and adjacent Recreation Area; a Pasaytan Wilderness; and two small additions to the Glacier Peak Wilderness Area. Legislation to implement these proposals has been introduced in both House and Senate.

The Federation welcomes these proposals and this legislation as a constructive and significant step forward in the drive for full protection of the magnificent North Cascades. However, it notes that the Administration legislation affords protection for only about one-half the park caliber lands which have been proposed for protection by the Federation and other conservation groups. It notes also that legislation has been introduced in the House (H.R. 12139) which would create a North Cascades National Park and National Recreation Area of truly adequate size.

It is therefore resolved that the Federation commends the Administration for its vision and foresight in attempting to obtain park and wilderness protection for some presently unprotected parts of the North Cascades. However, at the same time, it reaffirms its belief that the 1963 proposal of the North Cascades Conservation Council and others, affirmed in Resolution #8 of 1963, and embodied in H.R. 12139, is the best proposal for a North Cascades National Park.

It is further resolved that the Administration legislation, with certain necessary additions, can also form a satisfactory basis for protection. These modifications are: the addition of the valleys of Cascade River and Granite Creek, and the Mt. Baker area to the National Park proposed by the Administration; the Horseshoe Basin and Lightning Creek areas to the proposed Pasayten Wilderness; the Buck Creek, Downey Creek and Sulphur Creek drainages in their entirety, and more lands on the Whitechuck River to the Glacier Peak Wilderness; and immediate dedication of Pickett and Eldorado roadless areas as wilderness.

RESOLUTION 2. OREGON VOLCANIC CASCADES

The Oregon Volcanic Cascades have been shown to contain perhaps the most outstanding assemblage of volcanic forms existing anywhere in the United States and, in addition, an unusual ecological succession, as well as superb scenery combining the two.

The Federation of Western Outdoor Clubs has asked repeatedly of the federal government that better protection be given the scientific, scenic and recreational qualities of the area, particularly that portion between and including Mt. Jefferson and Diamond Peak. To date, the protection of these values, notably in some of the more wooded areas, has been most inadequate.

It is therefore resolved that the Federation of Western Outdoor Clubs reaffirms its Resolution #9 of 1963 that a National Park Service study be made to determine whether the National Park Service could administer any of the Volcanic Cascades area between the Columbia River and Crater Lake National Park so as to provide greater protection to the significant geologic, biological, scenic and recreational features than is being provided by the present management.

RESOLUTION 4. MOUNT ST. HELENS

The Mount St. Helens area contains a rich accumulation of unusual geological features, centering on the spectacular mountain itself and including Spirit Lake (formed only a few hunded years ago) to the north, the Plains of Abraham laval flow area to the east and southeast, and a fine collection of lava caves to the southwest.

Present Forest Service management plans appear uncoordinated. The Mt. St. Helens Scenic Area centered on the mountain is deeply indented by an extension of the Spirit Lake Recreation Area. The Lava Cave Area to the southwest apparently is established to protect the caves without interfering with timber harvest plans. Extensive logging is planned very close to the Mountain. Although a Mt. Margaret Back Country of somewhat over 5000 acres is being set aside for wilderness recreation, it is without dedication under the Wilderness Act. Apparently the remaining land will be subject to the usual logging procedures.

It is therefore resolved that the Federation of Western Outdoor Clubs urges that an integrated plan be developed for the Mt. St. Helens area which would provide recognition of the need for protection and interpretation of the fragile features associated with the caves, and would also manage the forests so as to maintain the scenic values of the country surrounding the mountain. The Mt. Margaret Back Country should also be classified under the Wilderness Act.

It is further resolved that if the Forest Service is unable to develop such a unified plan within the administrative procedures available to it, consideration should be given to establishing this area as a National Monument.

RESOLUTION 5. MOUNT JEFFERSON WILDERNESS AREA BOUNDARIES

Recommendations for size and boundary increases of the proposed Mt. Jefferson Wilderness Area were submitted at the October 1966 Forest Service hearing in Salem, Oregon, by representatives of the Federation of Western Outdoor Clubs and other conservation organizations.

It is resolved that the Federation of Western Outdoor Clubs urges the speedy enactment by Congress of legislation incorporating these recommendations.

RESOLUTION 3. GLACIER BAY NATIONAL MONUMENT

Glacier Bay National Monument in Alaska is a region of exceptional mountains, ice fields, and sea life, including the only example within the National Park System where glaciers flow to the sea. In its establishment by executive rather than legislative action, it was left without protection against intrusion by mining operations.

It is therefore resolved that the Federation of Western Outdoor Clubs urges that Glacier Bay National Monument be established as a National Park by Act of Congress, and that the Act of establishment provide for withdrawal of the area from mineral entry.

RESOLUTION 9. SOUTHEASTERN ALASKA WILDERNESS FORESTS

Tongass National Forest in Southeastern Alaska encompasses some of the loveliest forested mountain scenery in the United States, interlaced with fjords and narrows from Dixon Entrance to Icy Straits and Lynn Canal. No part of this region has been given formal wilderness classification.

Because of the future need for wilderness forests, wilderness designations in the Tongass National Forest should be made now. What may be a final opportunity to dedicate a substantial portion of virgin forest of primeval beauty has been created by the forfeit of a major timber sale under a fifty-year contract with the U.S. Forest Service.

It is therefore resolved that the Federation of Western Outdoor Clubs urges the Forest Service and Congress to designate areas in Southeastern Alaska for wilderness protection and to withhold further logging and pulp contracts until preservation of adequate portions of the forested islands and fjords is assured.

RESOLUTION 30. UNDERWATER WILDERNESS

The Federation of Western Outdoor Clubs endorses the following recommendations of the Panel on Oceanography of the President's Science Advisory Committee (see sec. 3.0) "Modification of the Ocean Environment" in *Effective Use of the Sea*, June 1966:

"Man's ability to modify and alter marine environment necessitates (1) establishment of a system of marine wilderness reserves; (2) large-scale efforts to restore and maintain the quality of already damaged environments; (3) increased research into possible biological effects of proposed programs that might cause environmental modifications.

"Establishment of a system of marine wilderness preserves (would be) an extension to marine environments of the basic principles established in the Wilderness Act of 1964. . . . In the present context, specific reasons for such preservation include:

"(a) provision of ecological baselines against which to compare modified areas;

"(b) preservation of major types of unmodified habitants for research and education in marine sciences; and

"(c) provision of continuing opportunities for marine wilderness recreation."

RESOLUTION 6. PRIMITIVE AREAS IN IDAHO

Persistent whittling away of sections of Idaho's primitive areas continues.

The Federation of Western Outdoor Clubs deplores such activities and recommends that no additional logging roads be built into or near these areas until a formal decision is made about their wilderness classification. The Federation also recommends that wilderness status be extended to certain areas whose inclusion has been questioned, specifically:

A.) Inclusion of the Magruder Corridor in the proposed Selway-Bitterroot Wilderness is endorsed. The Federation commends Senators Frank Church and Lee Metcalf for their part in opening hearings on the Magruder Corrider and for the thorough report resulting therefrom which emphasizes the important role of recreation and conservation.

B.) Since adequate entry is available to the Bighorn Crags area from Cathedral Rocks road and trail, the Federation asks that a substantial buffer zone be provided to the east of the Crags.

C.) The Sawtooth Primitive Area has been proposed as a National Park, and will also be reviewed for wilderness classification. At present, indifference on the part of both state and federal agencies, and the public as well, threatens its future. Recreational and wilderness values in the adjacent Sawtooth Valley, Stanley Basin, Hanson Lakes, and White Cloud areas are also jeopardized by slothful agencies and public apathy. Accordingly, the Federation asks for immediate action to protect these values.

RESOLUTION 7. TETON CORRIDOR

Three hundred thousand acres of prime wilderness lying close behind the major peaks of the Grand Teton Range have no wilderness protection. This region, designated as the Western Slopes and the Teton Corridor, between Teton Pass on the south and Yellowstone National Park on the north, extends from Grand Teton National Park westward to, for the most part, the Idaho border. It is geologically, geographically, aesthetically, and biologically part of the Teton region.

The section separating Teton and Yellowstone Parks, called the Teton Corridor, is crossed by one primitive road, from Flagg Ranch on the east to Ashton, Idaho. The wilderness qualities of the Corridor are threatened by proposed construction of a modern high-speed highway. In order to maintain the wilderness values of this area.

It is resolved that the Federation of Western Outdoor Clubs recommends the establishment of the area to the south of the existing primitive road as National Forest wilderness the area to its north as wilderness in either the National Forest or the Park, and opposes changes in the character of the road.

RESOLUTION 8. JACK CREEK

The Upper Jack Creek drainage adjacent to the Spanish Peaks Primitive Area in southwestern Montana has been recommended for addition to the proposed Spanish Peaks Wilderness Area. This drainage covers about 30,000 acres and is bounded by the Madison Range on the northeast and east, and Lone Mountain and Fan Mountain on the south and southwest. Except for the corridor of the existing Jack Creek Road, the recommended boundary coincides with that of the Beaverhead National Forest.

The country is covered with forests of lodgepole pine and Douglas fir interspersed with grassy meadows. Existing trails provide outstanding vistas of surrounding snow-capped peaks.

Except for grazing on some lower slopes, the area is undeveloped. Many local ranchers derive considerable economic benefit from recreational use of the area. Presently considered clear-cut logging operations on the deeply weathered shale soils would cause siltation damage to trout fisheries and induce damaging floods at runoff times, with reduced availability of irrigation water during late spring and summer.

It is therefore resolved that the Federation of Western Outdoor Clubs supports local civic groups, ranchers, and businessmen in their efforts to include the Upper Jack Creek drainage in the Spanish Peaks Wilderness Area. The Federation further requests Congress to enact enabling legislation directing the Forest Service to secure private inholdings within the area through exchange of land of comparable value.

It is further resolved that the Federation requests the Forest Service to prohibit use by motorized vehicles on trails in the Jack Creek watershed until final disposition of the area is determined.

RESOLUTION 10. MINARET SUMMIT HIGHWAY

The proposed trans-Sierra route, long known as Mammoth Pass and more recently as the Minaret Summit route, is in the Forest Highway System as Forest Highway 100. Feasibility studies by the Bureau of Public Roads which led to the designation of the Forest Highway have been supplemented by California Division of Highways data which indicate that a highway by this route is not economically advantageous. Such a highway would be closed by snow until well into the summer. The Administrator of the California Resources Agency has declared that it would bisect the John Muir Trail and damage adjacent wilderness. Despite this, local interests continue to press for construction of the road.

It is therefore resolved that the Federation of Western Outdoor Clubs reaffirms its opposition, first stated in 1957, to any trans-Sierra highway between Tioga Pass and Walker Pass as being contrary to the public welfare, and it specifically recommends that proposals for Forest Highway 100 be abandoned.

RESOLUTION 33. TRAIL CONSTRUCTION STANDARDS

A long tradition of forest and wilderness trails is familiar to all of us. In the National Forests of the west, trails built primarily to provide access for fire control, using heavy pack trains, are so standardized that they characterize the entire western mountain landscape. These "wilderness highways" were designed to insure uniform pack-train speed so as to minimize bunching and straggling. Necessarily, therefore, they had limited grades. Hence the familiar switchback of the western mountains, almost unknown in the east.

But the need for pack trains dwindles, for fire control purposes. Entry into National Forests and Wilderness is increasingly by backpackers who need less width, less pavement, and whose concern is not to keep a steady pace but more "how long will it take me?" Under these conditions, current standards for National Forest and Wilderness trails make less and less sense.

It is therefore resolved that the Federation of Western Outdoor Clubs asks that the Forest Service, when setting up standards of grade, surface width and quality, and width of clearing, give more consideration to local terrain and anticipated use, and encourage the building of trails to blend into the hillsides and wind through the trees.

It is further resolved that federal and state agencies be urged to consult with local outdoor clubs before setting standards and alignment for specific areas or trails.

RESOLUTION 11. SAN FRANCISCO BAY

The San Francisco Metropolitan Area fringes one of the world's great bodies of water. The Bay tempers the climate, provides a setting for recreation, nourishes a rich marine life, and provides indispensable winter habitat for migratory waterfowl and shorebirds.

Disturbances of the Bay and its marginal wetlands—diking, draining, filling, building of salt evaporation ponds, and use as a sewer and city dump—have progressively and diversely degraded its extent and quality.

Recently, acceleration of all destructive trends has posed problems which must be solved in the near future.

It is therefore resolved that the Federation of Western Outdoor Clubs urges that legislation to insure that San Francisco Bay suffers no further infringement in extent, in the quality of its water, in its hospitality to wildlife, or in its scenic and aesthetic characteristics, be enacted, and

It is further believed that a long range program of restoration of these attributes must be undertaken.

RESOLUTION 26. NAWAPA

The North American Water & Power Alliance (NAWAPA) is a proposal of continental proportions for the utilitarian management of water. It envisions the entrapment and storage of water in reservoirs in northwestern Canada and Alaska, and the transport, in great conduits, of water southerly as far as Mexico, and easterly into the Mississippi and St. Laurence drainages. Viewed simply as an engineering undertaking which seeks to meet future demands for water based on estimates of population growth and existing patterns of use and disposal, it has attractive qualities. However, its focus is entirely on economic activity, its estimates of the demands which it proposes to fulfill are subjective and self-serving, and its estimate of the pattern of water use and of water quality is that no further changes will occur.

NAWAPA, as proposed, would flood innumerable valleys from Alaska southeastward through British Columbia, Idaho, Montana, down into Utah and Arizona, and by modifying the natural processes of scores of important streams would ruin a large portion of the wild lands of the West.

It is therefore resolved that the Federation of Western Outdoor Clubs opposes this proposal and similar proposals, and suggests to proponents of such schemes that they look carefully at the whole American society before they recommend changes in the American landscape which must be expected to be more disruptive than beneficial.

RESOLUTION 28. POPULATION

The Federation of Western Outdoor Clubs supports efforts to identify and preserve the nation's estuarine areas.

RESOLUTION 12. HELL'S CANYON

The United States Supreme Court has recently ruled that before the Federal Power Commission issues a license for High Mountain Sheep Dam on the Snake River, it should consider not only the economic value of the project but also the impact that construction would have on fish and wildlife, and on the recreational significance of the undammed river. The Supreme Court decision recognizes that the law requires the most careful consideration of wilderness of scenic values before licenses are granted for hydroelectric projects.

Between High Mountain Sheep and Hell's Canyon damsites the Snake River passes through one of the deepest gorges in North America in a wild and beautiful region possessing scenic, geological, wilderness and wildlife resources of primary value to the nation in their present state.

It is therefore resolved that the Federation opposes construction of High Mountain Sheep Dam on the Snake River and urges instead that lower Hell's Canyon and the present Seven Devils Scenic Area be given protection to insure retention of their natural state.

RESOLUTION 16. FINANCING OF NATIONAL OUTDOOR RECREATION FACILITIES

At a time of unprecedented individual prosperity but also of great external commitments, the demand and need for acquisition and development of land for its recreational and scenic benefits outstrip allocations of federal funds. The problem is compounded by inflationary land prices. It has not been relieved by a national program of user fees.

It is therefore resolved that the Federation of Western Outdoor Clubs urges that new sources of income for the Land and Water Conservation Fund be developed to accelerate purchase of inholdings within existing National Parks and Forests, and of land for new parks. The Federation endorses proposals (such as S. 1401, as introduced by Senator Jackson) to include receipts from offshore oil and other federal mineral leases, timber sales, and grazing permits.

It is further resolved that, to maximize benefits, acquisition funds be made available quickly after authorization, and that development be deferred to land acquisition. Bonding, borrowing, advance appropriations to the Fund, or interventions by the Nature Conservancy may be effective aids.

RESOLUTION 13. COLUMBIA GORGE

It is resolved that the Federation of Western Outdoor Clubs urges the Columbia Gorge Commissions of both Oregon and Washington to intensify their efforts to retain the scenery, to develop recreational aspects of the Gorge, and to oppose stoutly the expansion of commercial activities which would degrade the scenic qualities between the mouth of Sandy River and the city of Hood River, Oregon.

RESOLUTION 14. LEADBETTER POINT

Leadbetter Point and the adjoining water area is a major stopping place for migratory birds on the Pacific Coast and is also a nesting area for many species. The associated marsh areas are easily eroded and thus should be open only to controlled foot travel.

It is therefore resolved that the Federation of Western Outdoor Clubs recommends that Leadbetter Point be made part of the Willapa National Wildlife Refuge to assure dedication of the area to protection of the habitat of migratory and nesting birds and other wild life, and supports the pending application by the U.S. Fish & Wildlife Service before the Bureau of Land Management for transfer of this area to its administration.

It is further resolved that the Fish and Wildlife Service and the Washington State Park Department be urged to establish immediately a joint program to exclude vehicular travel, and to build trails only upon evidence of damage from random foot traffic.

RESOLUTION 15. WILLAMETTE GREENWAY

The Oregon Legislature has recently provided a modest sum to be used as a matching fund to assist local governments in efforts to purchase property and recreational easements along the banks of the Willamette River. If the possibilities created by this legislation are implemented, the action will be of steadily increasing importance as the population in this part of the country increases, and as river frontage not covered by recreational easements becomes committed irreversibly to non-conforming uses.

It is therefore resolved that the Federation of Western Outdoor Clubs commends Governor Tom McCall, State Treasurer Robert Straub, the members of the Oregon Legislature, and the many citizens whose interest aided initiation of this program.

It is further resolved that the Federation urges the State of Oregon through its Department of Highways to develop and to actively implement a long range recreational plan for the Willamette Greenway.

RESOLUTION 17. FOREST SERVICE LAND POLICY

The Wilderness Act classification system as implemented by the United States Forest Service has successfully provided wilderness recreation possibilities for persons seeking this type of experience at higher altitudes. Forest Service policies have been notably less successful at providing off-road recreational opportunities at lower altitudes, and at permitting the motoring public the sensation of being on the edge of wild country.

Many low altitude forests must be devoted to timber harvest, but it is not essential that all of them be so utilized. Present Forest Service policy apparently is to develop a tight road network over all land outside of wilderness areas, often with clear cuts over existing trails, thus eliminating most trails on that land. Such a policy greatly restricts opportunities for hiking when the higher country is closed during winter and early spring. This policy also destroys any opportunity to preserve representative undisturbed units of significant size to illustrate a type of forest that once was very common. Boulder River in Mt. Baker National Forest and French Pete Creek in Willamette National Forest are among the very few low altitude watersheds in the Pacific Northwest not yet affected by logging operations.

Present Forest Service policies locate roads almost entirely for purposes of timber harvest and give little consideration to recreational values. Many members of the motoring public who do not wish personally to penetrate into wilderness still appreciate the experience of looking into wilderness. In the whole Pacific Northwest, there is scarcely a Forest Service road leading to a view across dedicated or de facto wilderness in which the immediate foreground is not marred by the clear cut whose sale paid for the road construction.

It is therefore resolved that the Federation of Western Outdoor Clubs requests the Forest Service to construct and maintain a considerable number of low altitude trails through uncut forests for recreational use even after the road network has rendered these trails unnecessary for administrative purposes. The selection and designation of such trails should be made in close cooperation with representatives of local outdoor clubs.

It is further resolved that the Federation urges the Forest Service to select a few representative low altitude valleys to be exempted from logging operations and kept as examples of a type of country generally not found in wilderness areas. Until the Forest Service has made its selections, the Federation specifically requests that no logging operations be initiated in the watersheds of Boulder River and French Pete Creek.

It is also resolved that the Federation recommends that the Forest Service include scenic and recreational values in the location and construction of its road system and that these values be given paramount consideration in those areas warranting it.

RESOLUTION 18. USE OF PUBLIC LAND BY UTILITIES

The increasing tendency of public and private utilities to locate power lines or pipe lines on public land results in the loss of forestry and scenic values.

It is therefore resolved that the Federation of Western Outdoor Clubs urges the Forest Service and other land management agencies to require that careful consideration and full weight be given to aesthetic values as well as to cost and engineering problems in locating utility corridors across public lands.

RESOLUTION 25. SONIC BOOMS

Military aircraft flying at supersonic speeds presently produce sonic boom effects which have proved disturbing to a large number of people. Congress has authorized development of a supersonic transport airplane which, because of its size and the frequency of use, could disturb or seriously disrupt urban and rural life, wild creatures, and delicate geological and archeological features.

It is therefore resolved that the Federation of Western Outdoor Clubs recommends that all aircraft, including supersonic transport planes, which consistently generate sonic booms in excess of those that may be permitted over urban areas, by statute be denied air space over wilderness, scenic and recreational open space, and fragile archeological sites.

RESOLUTION 28. POPULATION

The unprecedented growth of human population in recent centuries has led to increasing concern and study. Only lately has it become clear that continued population growth in the poor lands of the world is leading to imminent crises in food supplies and social instability, and that among poor folk even in affluent societies, the traditional large family is a potent factor in perpetuating poverty.

In the rich land of the United States, the American people are only beginning to see the scenic, aesthetic, recreational, wilderness and wildlife values which enrich the quality of human life can also be impaired by overuse, even though they are not consumed when used.

It is therefore resolved that the Federation of Western Outdoor Clubs commends and joins in the position of the several conservation organizations which have taken the lead by formally recognizing that, even in the richest of lands, continued population growth is incompatible with the objectives of the conservation movement and the maintenance of quality in the human environment.

It is further resolved that the Federation urges those conservation organizations which have not yet taken a position to do so, and urges the American people to manage family size in such a fashion as to lead to an early termination of the growth of the American population.

RESOLUTION 19. HIGHWAYS NEAR SHORELINES

Highways located on or close to shorelines tend to destroy the natural and scenic values of these shorelines, by altering the terrain, removing forests and other natural vegetation, and by intruding the sight and sound of traffic. These undesirable effects can be eliminated or greatly reduced if highways are located at reasonable distances from shores, and if access is provided where needed by stub roads.

A specific controversy involving these effects has recently developed in connection with a proposal to route U.S. Highway 101 along the Oregon Coast between Neskowin and Pacific City. Part of the issue has been resolved by the refusal of Secretary Udall to allow the route to follow the Nestucca sandspit. However, the State Highway Department has ignored the sound principles outlined above in routing the highway along the beach south of the mouth of the Nestucca River.

It is therefore resolved that the Federation of Western Outdoor Clubs urges that major highways be located wherever possible so that they do not interfere with recreational values of the shores of oceans, lakes, rivers, and other bodies of water.

It is further resolved that the Federation commends Oregon Treasurer Robert Straub and Secretary of the Interior Stewart Udall for their efforts in support of a proper routing of U. S. Highway 101 on the Oregon Coast. The Federation also vigorously urges

the Oregon Department of Highways to refrain from issuing contracts that violate these principles.

RESOLUTION 22. MOTORIZED TRANSPORT OFF ROADS

Various motorized devices such as jeeps, motorized trail vehicles (totegotes), snowmobiles, etc., permit easy access to unroaded areas not open to ordinary automobile traffic. These vehicles are clearly prohibited from areas dedicated under the Wilderness Act. Even in areas where they are permitted, they are not only a nuisance to pedestrians and horsemen but can be highly dangerous to them if improperly operated. State laws regulating traffic on established roads are often ineffective to control dangerous behavior associated with operation of such vehicles on government-owned land.

It is therefore resolved that the Federation of Western Outdoor Clubs recommends that agencies administering government lands outside Wilderness Areas should prohibit motorized traffic on trails subject to heavy pedestrian or equestrian use, and on trails where motorized traffic leads to significant damage. Separate trails should be provided when parallel motorized travel appears desirable.

It is further resolved that the Federation recommends the establishment of federal laws for the control of motorized traffic on those portions of public land which are open to such traffic.

It is also resolved that the Federation feels that public use of motorized snow vehicles within National Parks and Monuments should be restricted to established roads and developed areas.

RESOLUTION 20. SHALE OIL

The known oil shales of Colorado, Wyoming and Utah are estimated to control 70 times the known national reserves of conventional crude oil. A great deal of this oil shale is on Federal land, and the way in which the resource is developed involves questions of public policy. Many presently employed processes of mineral extraction and refining are highly damaging to the natural environment and can extensively alter huge areas if used indiscriminately.

It is therefore resolved that the Federation of Western Outdoor Clubs recommends that there be no large scale leasing or development of these lands until public policies have been defined regarding the condition to which the land is ultimately to be transformed. Subsequent operations should be required to adhere strictly to the policies so established.

RESOLUTION 21. PESTICIDES AND PREDATOR CONTROL

A basic objective of wilderness management is that only in very rare instances should human activity affect the ecology or cause an area to develop differently than it otherwise might have. Ecological development can be radically affected by distribution of chemicals such as pesticides that, at trace concentration levels, greatly influence the behavior of certain organisms. Likewise, a program of greatly depleting the number of predators in an area can have a profound effect on ecological development. When modifications of this sort occur, the effects may be irreversible and may preclude any return to the original condition of the area.

It is therefore resolved that the Federation of Western Outdoor Clubs urges that no pesticide or predator control program be initiated in any National Park or Wilderness Area until a commission of eminent ecologists has evaluated the specific case and has advised on the need for the proposed control program.

RESOLUTION 31. RESTRICTION OF WILD ANIMAL MIGRATIONS

The fencing of public lands, the construction of elaborate highways, and other restrictions to the movement of wild animals—for example, antelope—have interfered with the ranging, migration, and well-being of these animals.

It is therefore resolved that the Federation of Western Outdoor Clubs encourages efforts of the Bureau of Land Management, the Bureau of Public Roads, and other agencies to provide for the ranging and seasonal migratory needs of wild animals, one of which may be met by the construction of culverts to permit passage of animals under fenced highways.

RESOLUTION 23. ENGINEERING PROJECTS OF FEDERAL AGENCIES

The building of dams, dredging of river mouths, draining of marshlands, filling of tidelands, and other projects of the Corps of Engineers and the Bureau of Reclamation have deeply concerned those who consider many of these projects to be short-sighted and destructive of wildlife, scenic, and other values. In some instances, the projects have led to biological disasters.

Specific examples can be cited: The work of the Corps in Florida has become a national scandal. In Washington state, the project to dredge a deep harbor in the estuarine flats of the Nisqually River would disturb one of the few remaining resting and feeding places for waterfowl on the Pacific Flyway. The proposed three dams on the upper Snoqualmie River, in the interests of alleged flood control, would severely damage wildlife, drown forests, and cause other destruction. The construction of Horse Creek Dam off the Upper McKenzie would be disastrous to wilderness values. The indifference of the Bureau to scenic, biological, and wilderness values in its destruction of the Colorado River is a national disgrace.

The Corps and the Bureau, as mechanical specialists, lack the wider concepts of the humanities and the natural sciences and, for this reason, their proposals should be subject to review in the interests of the general public.

It is therefore resolved that the Federation of Western Outdoor Clubs recommends to Congress the enactment of legislation to subject all construction proposals of the Corps of Engineers and the Bureau of Reclamation to review and approval by an independent federal commission having adequate representation of specialists in ecological, recreational, and wilderness activities. It also notes that recent Supreme Court decisions direct the Federal Power Commission when granting power site licenses to give due consideration to the impact of dams on the quality of the environment.

It is further resolved that the Federation asks that the Corps and the Bureau be required to make public the objectives of all economic and technical feasibility studies when such studies are initiated and, further, to provide ready access to the results of such studies by the public.

RESOLUTION 24. DAMS AND WILDERNESS

Being contrary to the objectives of the Wilderness Act, dams and other structures regulating water flow may not be constructed in Wilderness Areas. Dams outside wilderness areas also violate the intent of the Wilderness Act if the resulting reservoirs intrude within those areas. Such intrusions after ecological conditions by flooding winter range and restricting movement of wildlife and by adding unnatural features to the scene.

It is therefore resolved that the Federation of Western Outdoor Clubs reaffirms its opposition to building of structures that may affect stream flow in wilderness areas and National Parks and Monuments. The Federation specifically opposes Senate Bill 1555 (introduced by Senator Moss) that would rescind the provisions of the Colorado River Storage Act prohibiting dams and reservoirs in National Parks or Monuments. The Federation also opposes the proposed Hooker Dam which would invade the Gila Primitive Area, and the proposed Sun Butte and Castle Reef Dams on the Sun River that would invade the Bob Marshall Wilderness Area.

RESOLUTION 27. LOGGING IN DE FACTO WILDERNESS

One of the most unfortunate sources of misunderstanding between citizen conservation groups and the Forest Service in the Northwest has been that agency's practice of frequently planning and advertising timber sales in de facto wilderness areas which are suitable and desirable for special protection under the Wilderness Act. In some instances, such as Deception Creek and Eight Mile Creek in Snoqualmie and Willamette National Forests, and east of the South Fork of the McKenzie River in Willamette National Forest, the sales have been advertised in areas formally proposed for wilderness protection. In other instances, logging and logging roads have pushed into areas which might logically have been set aside as wilderness, thereby damaging their wilderness values before any inventory of suitability for wilderness has been made.

It is therefore resolved that the Federation of Western Outdoor Clubs deplores the Deception Creek and Eight Mile Creek timber sales, in the proposed Alpine Lakes Wilderness, which were made before Congress has had a chance to consider these valleys for wilderness classification, and urges a moratorium on logging in these areas until Congress has so acted. The recent moratorium near the Mt. Jefferson Primitive Area in the Willamette and Deschutes National Forests is a commendable precedent.

It is further resolved that the Federation urges the Forest Service to undertake an inventory, surveying all remaining roadless non-protected lands under its jurisdiction, and to make proposals either for wilderness status or commitment to multiple use *before* such lands are irrevocably opened to timber harvest. Such proposals should be the subject of public hearings and comment.

It is also resolved that the Federation requests the Forest Service to refrain from logging or other development in any areas formally proposed for wilderness or other special classification by citizen groups until Congress has had an opportunity to consider these proposals.

RESOLUTION 32. PRESERVATION OF UNDERGROUND WILDERNESS

A number of underground caves and caverns are being increasingly affected by the impact of man, both as he enters and as he alters the ground surfaces above in such a way that delicate structures below or even whole cave systems may be destroyed. Almost all of these areas are true wilderness and deserve protection, both above and below.

Several areas in public awareness at this time:

A. Mammoth Cave National Park Kentucky, is the location of a Job Corps Work Center which has disturbed considerable surface area within the Park and which threatens some of the natural phenomena for which the Park was established.

B. The surface and cave features of Guadalupe Ridge, to the west of Carlsbad Caverns, are both rare and fragile. Current proposals to construct a scenic parkway along this ridge and other means of encouraging extensive use of the ridge should be prevented. Addition of this ridge to Carlsbad Caverns National Park would help to provide protection.

C. The Schonchin Lava Flow at Lava Beds National Monument contains a fine collection of lava caves. Protection of the surface area with wilderness status would prevent the physical impact of possible roads and help to assure protection of the subterranean wilderness.

It is therefore resolved that the Federation of Western Outdoor Clubs supports wilderness protection for underground caves, recognizing that wilderness preservation may be

valuable underground as well as on the surface. It recommends special attention be given to Mammoth Cave, Guadalupe Ridge near Carlsbad Caverns, and Schonchin Lava Flow in Lava Beds National Monument.

PROF. WILLIAM J. KNUDSEN, JR., REBUTS WALTER LIPPMANN ON U.S. WITHDRAWAL FROM VIETNAM

Mr. McGEE. Mr. President, Prof. William J. Knudsen, Jr., of the College of Law, University of Wyoming, has countered the recent proposal by Walter Lippmann that the United States should withdraw completely from Vietnam and pull back to Australia and New Zealand. The proposal, Knudsen points out in an excellent rebuttal printed in the Open Forum columns of the November 5 Denver Post, is consistent with Mr. Lippmann's longtime reliance on our Nation's "island status." It leaves huge question marks, however. Mr. Knudsen mentions India, Korea, Indonesia, Philippines, and the Southeast Asia Treaty Organization. What of them?

I ask unanimous consent that Professor Knudsen's letter to the Denver Post be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Nov. 5, 1967]

THE OPEN FORUM: WILL LIPPMANN ADMIT MISTAKES?

On Sunday, Oct. 22, I read with interest Walter Lippmann's latest oracular pronouncement, printed in this section, to the effect that the United States should withdraw completely from Vietnam and pull back to Australia and New Zealand, that it was a big "mistake" to be in Vietnam.

As the great oracle of America in mid-20th century he made it clear that this was undisputed fact. And his only reason, as I can see it, is to bring peace to the world. May I add, "in our time" as Mr. Neville Chamberlain did in the late 1930s.

Lippmann says, "I realize how much all of us hate to admit that we have made a mistake." Ah, how true, Mr. Lippmann. How true, indeed. But this I presume is only gospel for lowly mortals, like his readers and, of course, President Lyndon Johnson, to whom his advice was mainly directed. It does not apply to the gods on Mount Olympus, does it?

When he took leave of Washington, D.C., one of his fellow journalists, Howard K. Smith, noted that Lippmann was against involvement in World War II, arguing in fact, as late as 1940 (the year Hitler crushed France), that we in this country should decrease the size of our Army. Concededly, he then, as now, was consistent in relying on our "island status."

Subsequently, he opposed the Truman Doctrine of containing Russia right on her own doorstep. He predicted "either Russia will burst through the barriers which are supposed to contain her, and all Europe will be at her mercy, or, at some point and at some time, the diplomatic war will become a full scale shooting war. In either event, Europe is lost."

Twenty years has passed and, despite his dire predictions Europe is not lost. In fact, it is thriving.

In 1962, we were faced with the Cuban missile crisis. And, once again from those lofty heights we were advised to grant concessions to Russia which even Krushchev had not had the temerity to demand.

If Lippmann had been in error, by his very own words he would have admitted his mistakes by this time. So, I must assume we now should add Johnson's name to this illustrious roster of erring presidents, Roosevelt, Truman and Kennedy.

So much for the past. But what of the future?

If we retreat to Fortress Australia, Vietnam will fall in a few weeks. What then of the rest of Southeast Asia? Whether one agrees with the so-called "domino theory" or not, mustn't one concede that his plan would invite it?

But, Southeast Asia aside, what of India? I presume that in arriving at his proposal Lippmann must have given a great deal of consideration to the possibility of an attack on India in the foreseeable future (say 1975) and decided that no defense of India by the United States should be made.

There are many other points I could raise, e.g., Korea, Indonesia, the Philippines, SEATO, etc., but time does not permit here.

I would, however, like to ask one final question about Lippmann's latest advice. Do you really believe the manager should rely on one who has struck out three times?

WILLIAM J. KNUDSEN, JR.,
Professor, College of Law, University of Wyoming.
LARAMIE.

CRIME AND COURT CONGESTION IN THE DISTRICT OF COLUMBIA

Mr. BYRD of West Virginia. Mr. President, various Senators have expressed concern about the rising crime rate in the District of Columbia. This concern is shared by members of the Appropriations Subcommittee on the District of Columbia, of which I am the chairman.

During the past summer my subcommittee conducted extensive hearings on the subject of crime and court congestion, and I again wish to suggest—as I suggested yesterday during floor consideration of the fiscal year 1968 appropriations for the District of Columbia—that the legislative committees, which have jurisdiction over legislation pertaining to crime, assign their staffs to conduct a review of the printed hearings prepared by the subcommittee. I believe that such a review will reveal many weaknesses in the areas of parole and probation and will also emphasize the need for additional judges as well as the need for an intensification of effort on the part of all judges to keep abreast of the criminal caseload.

The Senate Appropriations Committee, in its report accompanying H.R. 8569, made some pertinent observations and recommendations dealing with crime and court congestion in the Nation's Capital. These observations and recommendations grew out of the hearings to which I have already referred.

I wish to call special attention to the committee report language, hoping that all Senators and Members of the other body will find the time to consider the facts and points presented therein. Accordingly, I ask unanimous consent to insert that portion of the committee report, dealing with crime and court congestion, in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

CRIME AND COURT CONGESTION

In view of the critical crime situation in the Nation's Capital, unprecedented delays in criminal trials, and an alarming number of vacancies and resignations in the Police Department, special sessions were conducted incident to the regular appropriations hearings to determine what practical steps might be taken, without delay, to reverse the seeming general breakdown in the District of Columbia's law enforcement machinery.

The testimony relating to crime and related matters is set forth in part III of the subcommittee's hearings, which also includes reports from various agencies and courts concerned as to the changes and progress being made to improve the situation. Accordingly, it is believed sufficient here merely to state that—

(1) The maximum amount budgeted has been recommended for those items which directly contribute to this war on crime.

(2) The U.S. district court has assigned 12 of its 14 regular judges to its criminal calendar in an effort to reduce the lapse of approximately 1 year between arrest and trial of persons charged with serious crimes. However, even with the substantial assistance of the senior district court judges in the trial of civil cases and motions, it cannot for long continue to assign such a large proportion of its judge power to criminal matters, unless it receives assistance from the judges of the U.S. Circuit Court of Appeals for the District of Columbia, the calendar of which is current, and from visiting judges from other judicial districts. The emergency would seem to demand the immediate and fullest cooperation of both the local U.S. court of appeals and the Federal judicial system until some longer range solution can be found. Adequate supporting personnel for this crash operation has been promised by the Department of Justice and the Administrative Office of the U.S. Courts.

Further, it is imperative that the vacancy on the U.S. district court, which has existed since November 1966, be filled forthwith, and that appointments to fill existing vacancies on the U.S. court of appeals and the court of general sessions also be expedited.

(3) The testimony was overwhelming that the Bail Reform Act and the Criminal Justice Act, as they are operating in concert in the District of Columbia, permit persons charged with serious crimes to remain on the street pending trial, regardless of their danger to the community, and contribute to a wide range of devices to delay the disposition of their criminal cases. This is considered to be a major factor in the rising crime rate and the overburdened court dockets. In the light of testimony received, it is recommended that the Congressional Judiciary Committees make an early reexamination, particularly of the relatively new Bail Reform Act, with a view to affording greater protection to the public from criminal recidivists.

(4) The U.S. Parole Board, the D.C. Parole Board, the U.S. district court in conjunction with the U.S. Probation Office for the District of Columbia, the court of general sessions, the juvenile court, and the Department of Public Welfare, following the hearings, have all reportedly adopted changed procedures whereby persons free on parole or probation from previous convictions, when charged with a new serious crime, are arrested forthwith, given a hearing governed by the statutory requirements relating to parole and probation, and if found in violation of the conditions of parole or probation, their parole or probation is revoked and they are returned to custody. Formerly, it was the practice to revoke probation or parole only for technical violations; that is, failing to report, being out late, drunkenness, et cetera, but where a most heinous crime was committed, no action was taken until they were tried and convicted of the new offense and had perfected their appeals, even though under the Bail Reform Act, they were free to engage in still other crimes. The new policy, which according to the law seemingly should always have been the policy, will remove from the streets large numbers of chronic offenders of serious crimes, but the success of this policy will

depend upon the effectiveness with which it is administered. It is strongly urged that the agencies concerned conscientiously administer the new policy and if additional personnel is needed, that budget requests for same be made.

(5) The worst conditions involving crime and the fostering of criminal careers were found in the juvenile court, where it was learned that juveniles were committing as many as 10 or 15 crimes within a year, which, if committed by adults, would have been felonies, before any real corrective action was taken. Many of the juveniles committed a series of atrocious crimes and, for the most part, continued to remain on the street. Ostensibly, this was due to a shortage of judge-power, but it was admitted that the Social Services Division screened all incoming cases and determined whether they should even be referred to the judge, and this is by law. Under the rampant crime conditions which exist with respect to persons under 18 years of age, it is suggested that Congress review the setup of the juvenile court; that in the interim the court improve its administrative procedures; that the Social Services Division be less ponderous and time consuming in developing the case histories of the respective juvenile offenders; and that chronic offenders be treated for what they are, rather than as wayward children. Undoubtedly, this court also needs additional judge-power and administrative personnel.

(6) The court of general sessions has cut down its backlog of criminal cases substantially during the current calendar year, in spite of the number of felony arrests that have been reduced to misdemeanors. As the overwhelming percentage of all criminal arrests are originally brought to this court, the practice of "no papering" (entirely dropping) or reducing felonies to misdemeanors should be scrutinized most carefully by the Department of Justice. There was a suggestion that the practice of "no papering" serious criminal charges and reducing felonies to misdemeanors was, at least in part, resorted to for the purpose of tailoring the criminal caseload to the capacity of the courts.

Another common fault in both the court of general sessions and the U.S. district court is the ease with which a defendant can obtain a continuance. This causes numerous useless appearances by complaining witnesses and police and frequently results in dismissal of serious criminal charges because the witnesses had become tired of appearing in court when the defendants were not there. If the courts are to control the administration of justice, rather than turn it over to the accused, severe steps must be taken to curtail such practices.

(7) While the police have put into effect numerous of the recommendations of the Crime Commission and in other ways have considerably improved their effectiveness, the number of vacancies in the Department still remains at the staggering figure of 370. The effort and resourcefulness which the police and the Civil Service Commission have put into a recruitment drive are most disappointing and, under existing conditions, much more must be done to attract applicants.

(8) It is strongly urged that the new administration in the District of Columbia give top priority to expending the creation of a modern central records system which will adequately reflect the facts and the current status of criminal cases. The present scattered recording systems of the police and the courts are unbelievably disorganized and inadequate.

DEMOCRATIC PARTY LEADERS SPEAK OUT ON WHY PRESIDENT JOHNSON WILL WIN IN 1968

Mr. McGOVERN. Mr. President, the Christian Science Monitor recently conducted a survey of Democratic State chairmen and national committeemen and committeewomen on the political outlook for 1968. The findings, I think, will be of interest to my colleagues on both sides of the aisle.

There was full agreement and support for the candidacy of Lyndon B. Johnson and HUBERT H. HUMPHREY. And there was little doubt that this ticket will bring another Democratic victory in 1968.

Of particular interest, I think, is how these party officials view the current polls. As National Committeeman Tom E. Brown, of New Mexico, commented:

The President sits in the seat where the buck passing stops. He must make the decisions. None of the other opposition party hopefuls now have that responsibility.

When polls are taken the President is placed on one side, and the opposite side is divided between the various hopefuls who are free to take ever-changing positions without being accountable for the implementation of those decisions.

When the opposition nominates its standard-bearer, then the polls will show that the American people support their President.

And Dr. Mildred Otenasek, national committeewoman from Maryland, had this to say:

I think President Johnson will win in November 1968. I have been through too many elections where the candidate's popularity the year before the election is low, and then the following year, he wins gloriously.

There is prosperity at home. As far as Vietnam is concerned I am behind the President 100 percent. I remember Munich—too well.

Steve McNichols, the national committeeman from Colorado, commented:

I feel the President has kept the previous commitments of Eisenhower and Kennedy, and the way to end the war is to support the President fully.

The Ohio State chairman, Morton Neipp, declares:

The electorate . . . confronted with a choice between President Johnson and the Republican nominees will choose Johnson because of his dedication and ability. And they will favor the incumbent—not a change.

And the national committeewoman from Rhode Island, Mrs. Annette Cusson, sums it up:

Republican presidential aspirants criticize President Johnson, but they cannot suggest any proposals to solve the Vietnam problem. For them the subject becomes a political football.

These distinguished Democratic Party leaders have spoken forthrightly and in a way in which all Democrats can take heart.

These are difficult and dangerous times. But President Johnson is proving to possess the wisdom and courage to lead the Nation firmly toward a brighter future.

Our party knows this. And so do the majority of the American people. We Democrats can look forward to 1968 with the confidence that unity and accomplishment are on our side.

CONSERVATION WEEK IN CONGRESS

Mr. JACKSON. Mr. President, Secretary of the Interior Stewart L. Udall has described last week as conservation week in the Congress. He referred to enactment by the Senate on succeeding days of legislation to authorize the Redwood National Park in California and the North Cascades National Park and associated recreation and wilderness areas in Washington. Secretary Udall pointed out that the Senate has also approved this year another landmark conservation measure, the scenic rivers bill. The final enactment by the Congress of these three bills alone, he said, would make 1968 a year for conservation legislation comparable to the high watermark we reached in 1964 with the enactment of the wilderness bill and the land and water conservation fund bill.

President Johnson's strong support for these key measures is in keeping with his lifelong efforts for the preservation of the natural beauty of our country. Enactment of this legislation will be another great step forward in the conservation program which the President and the Congress are working together to achieve.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point editorials which comment on the Senate's conservation achievements of last week.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, Nov. 4, 1967]

NATIONAL PARK CONSENSUS

The Senate's passage in rapid succession of bills to create the Redwood and North Cascades National Parks is the best conservation news of the year. It is especially gratifying that the redwoods bill went through by a 77-to-6 vote after the prolonged struggle and seemingly insuperable obstacles. At last a broad consensus has evolved in favor of the Jackson-Kuchel bill.

The North Cascades bill slipped through on a voice vote. It puts the Senate on record for what Senator Jackson called a "scenic masterpiece" consisting of 1.2 million acres of park, wilderness and national recreation areas. Just as the redwoods will bring into the National Park System the most spectacular forests in the United States now in danger of extinction, the North Cascades bill will assure preservation of the finest mountain scenery in America now outside a national park.

The redwoods compromise takes in more than 60,000 acres in two large segments, one in the Mill Creek area and the other in the watershed of the Redwood and Lost man Creeks. These two magnificent forests would be linked together by a scenic strip along the Pacific Coast. It is unfortunate that the entire drainage area in both locations could not be included, but the best of the old-growth redwoods (including three California state parks) will be within the new park. It will be one of the finest additions to the national recreation system.

The sharp controversy over the provision to trade the Forest Service's "northern purchase unit" for redwood land within the park boundary was painful to the Senate as it has been painful to all conservationists interested in the project. This newspaper had expressed the hope that the bill could be passed without this concession to the timber industry, and we still hope that some way of avoiding the transfer can be found. Yet it must be recognized that the loss of 14,500 acres of redwood and Douglas fir land that is now being logged under Forest Service management will be a small price to pay, in conservation terms, for a national park of more than 60,000 acres including the best of

the ancient trees. Without this concession, the price on the park (it is now placed at $100 million) might well prove to be prohibitive.

If the new park were merely absorbing this piece of Forest Service land, no serious question would be raised. Nor would any question arise if the Interior Department were merely trading a piece of land under its jurisdiction for another site more appropriate for park purposes. The crucial question that must be asked is whether the country itself will benefit from the transfer, and the answer is very positively in the affirmative. The fact that this 14,500 acres were acquired 30 years ago in an unsuccessful effort to establish a national park should permit the exchange for better park land without creating any precedent detrimental to the national forests.

[From the Washington (D.C.) Star, Nov. 6, 1967]

THE REDWOODS PARK

Senate approval, after years of controversy, of a redwood national park in northern California is a heartening achievement in a generally lackluster session of Congress.

The measure was the product of many compromises. Out of a bewildering maze of proposals, the Senate settled for a park of roughly 64,000 acres which will preserve prime virgin timber. At the same time it will assure the California lumber industry continued employment by a unique swap of federal timberland for park acreage, a move that incidentally will save about $40 million in taxpayers' money.

This is not a perfect bill. Although the Save-the-Redwoods League and the Sierra Club endorsed it, the club originally had pressed for a 90,000-acre park costing some $200 million. Furthermore, it will be up to the State of California to bring the project to fruition by donating a number of state parks—Jed Smith, Del Norte Coast and Prairie Creek—to tie into the national preserve. Judging from Governor Reagan's past statements, the public can only keep its fingers crossed in this matter.

It is too late in 1967 for the House to complete the legislation. But this plan to rescue a dwindling, priceless gift of nature ought to be the first order of business in the House next year. The lumber companies have shown restraint in their cutting during the debate. They cannot be expected to wait indefinitely while Congress argues about the park's final dimensions.

[From the Washington (D.C.) Daily News, Nov. 6, 1967]

A GARLAND OF REDWOOD

Senators Henry Jackson (D., Wash.) and Thomas Kuchel (R., Calif.) deserve a garland or redwood for piloting their bill to create a 61,600-acre Redwood National Park thru the Senate.

Their bill would protect the finest of old-growth forest in a lovely area 300 miles north of San Francisco. Included would be the 250-foot "tallest trees" discovered in 1964.

They drafted their bill with consideration for the area's lumber economy and for the differing views of the two conservation groups which have worked hard to save the remnants of redwoods which once spread hundreds of miles along the California coast. Both conservation groups now support the bill.

It was unfortunate that the Forest Service tried to mobilize its allies to defeat the Jackson-Kuchel measure. The Senators' plan to swap 14,567 acres of commercial redwoods administered by the Forest Service for the privately owned old-growth timber is a laudable attempt to be fair to all parties. As Jackson said, this would be "an honorable exception" to a general policy not to trade off Federal lands.

The Forest Service's superiors at the Agriculture Department and the White House should end the service's lobbying and throw the Administration's total weight behind the Jackson-Kuchel bill for early House approval.

[From the New York Times, Nov. 5, 1967]

REDWOODS VICTORY

Senate approval of the bill to create a redwood national park in northern California brings this long dreamed of project near to success. House action is not expected until next year, but the decisive success in the Senate encourages supporters to press for an early decision.

The Forest Service is understandably unhappy about the provision in the bill transferring 14,500 acres under its jurisdiction to private lumber companies in exchange for lands to be included in the new park. But there is no reason to suppose that this transfer establishes a decisive precedent. It is a unique transaction just as the redwood is a tree uniquely worthy of protection in a national park.

The Times would have preferred that Congress simply appropriate money to buy the land rather than engage in this exchange, but this was not politically feasible in view of the fiscal pressures of the Vietnam war. The possibility that the lumber companies may cut the best redwoods makes it dangerous to defer action until the war ends.

The House Interior Committee could improve the bill by enlarging the Redwood Creek section of the proposed park. The Senate bill protects some of the best groves of virgin redwoods in that area, but it includes relatively little of the surrounding watershed. Purchase of more watershed land now would be a wise investment for the future of the park.

[From the Los Angeles (Calif.) Times, Nov. 7, 1967]

COMPROMISE ON REDWOODS PARK

Congress may yet reach agreement on a Redwoods National Park before it's too late. The latest of many compromise proposals has cleared the Senate with approval of a 64,000-acre project costing nearly $100 million. But no action will be taken in the House until next year.

Presumably, timber companies will continue their moratorium on the cutting of the stands of virgin trees that would be acquired under the Senate bill. If not, it will be a race between the House and the lumbermen's saws.

By a 77–6 vote, the Senate accepted a compromise that had something for everyone—and consequently a price tag much higher than the original administration proposal. The bill as passed calls for the acquisition of a total of 64,000 acres at an estimated cost of nearly $100 million.

Major objection on the Senate floor was to the exchange of government timberlands for the privately held groves that will become part of the national park. The U.S. Forest Service opposes the swapping of its lands, while the lumber industry prefers that no private property at all be taken.

But determined efforts by Sen. Thomas Kuchel (R-Calif.), long-time champion of the park, and chairman Henry Jackson (D-Wash.) of the Senate Interior Committee, led to a compromise that received the support of Gov. Reagan, the Sierra Club, the Save-the-Redwoods League and the Interior Department.

Reagan's support was accompanied by a plea that the amount of private acreage to be taken be diminished to lessen the economic impact.

Studies made for the Interior Department, however, indicate that the establishment of a national park actually will improve the over-all economy of the affected areas in the years to come.

In addition to the acquisition of land by purchase and trade, three California state parks—Jedediah Smith, Del Norte Coast and Prairie Creek—would become part of the national park complex.

Some further compromise may be possible. But nothing must delay congressional action on the preservation of a priceless and irreplaceable national resource.

[From the Sacramento (Calif.) Bee, Nov. 11, 1967]

REDWOODS BILL IS A VICTORY FOR BEAUTY

The passage by the United States Senate of a bill to establish a national redwoods park in Northern California was an event of great historic significance. It firmly pins down the fact citizens of this nation accept the preservation of natural beauty as a true and worthwhile expression of their respect for national heritage.

The overwhelmingly favorable vote of 77 to 6 by which the Senate passed the redwoods bill to the House was a victory of tremendous proportions. It represents an outstanding achievement in the campaign for esthetics, an uplifting of the quality of life in America.

The fine work of Sens. Thomas H. Kuchel, R-Calif., and Henry M. Jackson, D-Wash., who sponsored the proposed 64,000-acre compromise of the conflicting and confusing ideas for a park, is deserving of the highest commendation.

Because it is a compromise—which was necessary to get any congressional action at all—it does not fulfill the fondest wishes of all the people who have sought a national redwoods park for decades. But it is a start, a meaningful start toward making the park a reality.

The Sierra Club, which wanted a much larger area, and the Save-the-Redwoods League, which first proposed the park nearly 50 years ago, threw their support behind the Kuchel-Jackson bill as acts of statesmanship so the progress no longer would be stymied.

It is expected changes in the Kuchel-Jackson bill will be attempted in the House of Representatives. But if any modifications are made, they should be toward expanding the boundaries rather than constricting them. After all, the cash outlay of the Senate proposal would be only $60 million, which is merely as much as is spent on a few miles of freeway every day.

Assemblyman Edwin L. Z'berg of Sacramento County, whose Assembly Committee on Natural Resources, Planning and Public Works has prepared one of the best reports existing on the current redwoods controversy, has commented the American people deserve a national park which meets their aspirations for a "significant" preservation of redwoods.

The House ought not ignore this test of national values.

[From the Seattle (Wash.) Times, Oct. 26, 1967]

NORTH CASCADES PARK BILL BEGINS TO MOVE

The North Cascades National Park bill, which Senator Jackson hopes will be approved by the Senate next month, needs to be recognized for what it is in revised form, and studied on the one major controversy it is sure to create.

As the bill was approved this week by a Senate subcommittee, it does not affect either valley logging on the western slopes of the North Cascades or the proposal to establish an open-pit copper mine near Glacier Peak. Park boundaries avoid both areas. While this disappoints preservationists, it give the bill a better chance of approval in the House, where multiple-use advocates have their strength.

It also should be noted that the bill differs in three aspects from the original administration proposal.

Two of the changes should not provoke

much controversy. The preservationists won a point from timber interests when the Horseshoe Basin, in Northern Okanogan County, was included in a wilderness area. The preservationists lost a point when it was proposed that hunting be permitted in the Stehekin Valley.

But the change which will cause controversy lies in the addition of Thunder Creek to the proposed Ross Lake Recreation Area. Removal of the creek from the proposed park opens the door for Seattle City Light to build a 300-foot dam and create a mile-long reservoir in what now is a prime wilderness.

This provision already has met prompt opposition from the North Cascades Conservation Council. This puts City Light on notice that it must justify its proposal, particularly in the light of gathering evidence that nuclear power now provides a practical alternative to construction of more hydroelectric dams.

But regardless how this debatable provision finally is settled, Senator Jackson is right in moving so promptly to a point of decision on this important matter of creating, at last, a North Cascades National Park.

[From the Spokesman Review, Washington, Nov. 3, 1967]

MODIFIED CASCADES PARK PLAN WINS

Without dissent, the United State Senate accepted Thursday the recommendations of its Interior Committee for the establishment of a North Cascades National Park.

The Senate bill (S. 1321) represents a substantial alteration of the park plans proposed in December 1965 by a North Cascades study team appointed by Interior Secretary Udall and Agriculture Secretary Freeman.

Thanks to the efforts initiated by Washington's Gov. Dan Evans, a state-based study committee came up with some suitable recommendations last year. Later, other improvements were incorporated in an administration proposal made to Congress last March.

The Interior Committee headed by Sen. Henry M. Jackson devoted considerable attention to the plans and compromises. In public hearings it listened to conflicting arguments and finally reconciled some major disputes into some major agreements and a few minor differences.

The modified Cascades Park plan as recommended by the committee and accepted by the whole Senate includes some vital concessions to the State of Washington and to some of the economic interests that would be affected by changes in the present jurisdiction over the public lands in the North Cascades.

One major new element would be the creation of Lake Chelan National Recreation area. Another one of importance would provide protections for the proposed North Cross State highway and its potential contributions to accessibility in behalf of the general public.

While there still may be some objections to the authorization bill as passed by the Senate, it does provide a positive base upon which the whole park-wilderness-recreation reservation can be thoroughly and intelligently weighed, pending final action by the House of Representatives sometime next year.

The proposed North Cascades National Park—if the final terms are generally acceptable—could become a great asset to the state and entire Pacific Northwest. The measure should receive a searching, favorable consideration within the coming weeks.

FEDERALLY SUPPORTED REPORT ON ALCOHOLISM IS ILL CONCEIVED

Mr. BENNETT. Mr. President, at a time when problems associated with alcoholism are menacing the social fabric of our Nation more intensely than ever before, I am greatly disturbed over a report of a recent study which was financed by a $1 million grant from the National Institute of Mental Health.

The report, "Alcohol Problems," prepared by the Cooperative Commission on the Study of Alcoholism, ostensibly is intended to discourage drinking in bars, where excessive amounts of liquor are often consumed. On the surface, this sounds like a logical proposition. However, in its effects, it could make the home a bar for many persons.

Published last month, the report recommends "increased emphasis on gregarious social drinking" to replace drinking in bars.

This "gregarious" drinking, as suggested by the report, is to include the serving of alcoholic beverages to young persons at adult sponsored church gatherings. dispensing beer in college cafeterias, and permitting liquor advertisements to show alcohol being consumed by all members of the family, including children, in a family setting.

These suggestions—apparently intended to encourage moderate as opposed to heavy drinking—could be to alcoholism what gasoline is to a fire.

At a time when alcoholism is being more widely recognized as a devastating social, family, and personal problem, it is incredible that suggestions to imbed this menace more deeply into our lives could be seriously proposed.

Legitimate studies to combat alcoholism are badly needed, but it is difficult to understand how the spending of $1 million of the taxpayers' money could be justified for results such as these.

The ill are not helped by the spreading of infection to others. It clearly seems that our objective should be to discourage the taking of that first drink by our young people, and not to foster the growth of alcoholic problems through such methods as this report proposes.

A logical start toward this goal would be the passage of a bill I helped cosponsor recently, S. 2500, which would require a label on beverages containing more than 24 percent of alcohol. The label would read, "Caution: Consumption of alcoholic beverages may be hazardous to your health and may be habit forming."

It is past time that we, as a nation, make an all-out, concerted effort to curb the problem of alcoholism.

THE STATE OF THE ECONOMY

Mr. JORDAN of Idaho. Mr. President, recent economic evidence is casting serious doubt on the wisdom of the President's 10-percent tax surcharge proposal. The inflationary superboom that the tax increase was supposed to prevent clearly is not materializing. In fact, enactment of the tax increase now runs the risk of contributing to slow growth and aggravating the already worsening unemployment picture.

Unemployment in October increased for the second month in a row. The unemployment rate stood at 4.3 percent of the civilian labor force compared to 4.1 percent in September and 3.8 percent in August. This was the largest 2-month increase in 7 years and brings unemployment to its highest level in 2 years.

While unemployment is increasing, the average weekly hours of workers on private nonagricultural payrolls has been dropping. What this means to the average worker is lower pay. The drop in weekly hours and the sharp rise in the cost of living have combined to cut the purchasing power of the factory worker's weekly pay envelope in September of this year to less than it was a year earlier.

At the same time that the average worker's purchasing power is declining, consumers are saving more of their disposable income. Whatever the reason for the jump in savings—the Vietnam war, urban disorders, or uncertainty over economic policy—the effect is to knock the props out from under the administration's argument that a surge in consumer spending would contribute to a booming economy.

The easing of pressures on the labor market is not the only indication that the administration's economic forecast is off base. America's factories are operating at only about 84 percent of capacity, leaving substantial slack before rising demand really begins to exert an inflationary pinch. At the same time, large amounts of new capacity put in place during the recent investment boom are beginning to go into operation.

Other key segments of the economy have also shown less exuberance than expected. New factory orders, a key indicator of future production, have fallen for 3 consecutive months. Capital spending by business on new plant and equipment is expected to rise only slightly, if at all, next year. Spending by the Federal Government—particularly for defense—now appears to have peaked after rising sharply for the past 2 years. And finally, the recovery of residential housing is threatened by the highest long-term interest rates since World War I.

Our key economic problem is not inflation arising from excess demand pressures—as the administration says—but rather large wage increases which are putting pressure on profits and indirectly leading to price increases. Recent wage settlements have been averaging 5 percent a year, and the Ford settlement has broken into even higher ground and set a dangerous precedent for later agreements.

Government action is also contributing to wage pressures. The increase in the minimum wage to $1.60 that will take place on February 1 will mean a boost of 15 percent for over 4 million workers and will put further upward pressure on wages throughout the wage scale. The tragedy is that the sharp boost in the minimum wage will mean loss of employment opportunities for many low-wage workers whose contribution to production is less than the new minimum which they must be paid.

Rather than further cutting the take-home pay of workers by a tax increase, the administration could better contribute to cost-price stability and public confidence by sharply reducing the increase in Federal spending. A modest cut

in Federal spending would clearly demonstrate that the administration and the Democratic Congress mean business when they talk about stopping inflation. The surge in Government spending in recent years has been chiefly responsible for the present instability in the economy and is the logical place to begin to correct past mistakes.

GEN. OMAR BRADLEY'S VISIT TO VIETNAM

Mr. THURMOND. Mr. President, the November 14, 1967, issue of Look magazine carries a report entitled "My Visit to Vietnam," which was written by one of our most distinguished soldiers—General of the Army Omar Bradley.

General Bradley visited Vietnam from one end of the country to the other, and saw thousands of Americans—soldiers, sailors, marines, airmen, and Seabees. He went to them where they live and fight—aboard ship, in trenches, foxholes, tanks, artillery positions, and radar posts. He mingled with villagers and talked with civic action groups.

This experienced veteran was proud of what he saw, and was pleased to report favorably on the spirit, morale and competency of our fighting men. He also reported great progress. A short while ago, he said, Saigon was the only seaport and there were only three airfields capable of handling jet aircraft. There are now six ports and eight jet airfields.

The report carried a strong message to the American people about the air war.

If we halt the bombing—

General Bradley said—

the mud-spattered GI's in the central highlands near Dragon Mountain and the marines up at the DMZ know that the tons of ammunition being expended against our planes would be coming down the trail to be fired at them. They know the vast manpower kept occupied by the raids would be free for use against them.

In this excellent report the General has done a great service to the American people, who know and trust him to call a spade a spade. I commend it to my colleagues and ask unanimous consent that it be printed in the body of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MY VISIT TO VIETNAM

History will give high marks to the United States for its responsible behavior since World War II. Never has a nation of such power been so sorely and so systematically tried. The Communists, disciples of a doctrine that no people ever willingly embraced, have sought domination by attacking a supposed weak spot through trickery, propaganda, bluster and violence. Each time, the United States has reacted and, with the help of allies, blocked them from achieving an easy victory. And always we have done it without resorting to that horror of horrors, all-out total war.

The Communists tried blockade in Berlin, terrorism in Greece, conventional warfare in Korea. In each instance, we stopped them. In Cuba, they tested us to see if we were prepared to go to nuclear war and found we were. Now we are being tested again. As with Berlin, Greece, Korea and Cuba, Vietnam is a proving ground. This is no simple civil war fought solely by patriots, although there certainly are patriots on both sides. It is, in essence, a laboratory experiment, executed with callous disregard for human life by those in Hanoi and Peking who want to see if the "protracted war" theories of Mao Tse-tung will work. If these theories hold in Vietnam, they unquestionably will be applied elsewhere, and we shall have to confront them again and again. The Communists have spelled it all out for us. In statements as blunt as Hitler's *Mein Kampf*, they have assured us time and again it is their intention to impose their form of government upon the world.

In May of 1951, testifying before two Senate committees as chairman of the Joint Chiefs of Staff, I opposed enlarging the Korean War to include the China mainland. I was referring solely to the crossing of the Yalu River, although in ensuing years, I frequently have been misquoted as opposing the action in Korea, which I actually supported. I said that a "limited war" with Red China then "would involve us in the wrong war, at the wrong place, at the wrong time, and with the wrong enemy."

The Soviet Union had a mutual defense treaty with Red China providing that each would treat any attack on the other as an attack on itself. Furthermore, the Russians were furnishing most of the war supplies used by North Korea. If we had wanted to stop the flow of those supplies by strategic bombing or other means, our attack should have been directed against Russia. In my view now, as then, Red China was the wrong enemy.

Maybe, as some critics claim, Vietnam is the wrong war too, in the sense that we should have avoided getting involved so deeply in it. I don't know. Playing armchair general is much easier than bearing the responsibility and rendering the decisions at the moment of crisis, and history does not reveal the results of untried alternatives. It is fuitless to dwell upon what-might-have-been when faced with the screaming realities of the here and now. After tramping throughout the length and width of South Vietnam, going wherever I wanted to go and talking to whomever I wanted to talk, I am convinced that this is a war at the right place, at the right time and with the right enemy—the Communists.

My wife Kitty brought the trip about. She sensed my growing conviction that I had to go and see Vietnam for myself. She knew I had always believed there is no substitute for talking to the men in the field. The deterrent to taking a trip like this was a bothersome cartilage in my right knee, torn while playing football at West Point. I did not want to go into a war zone and then wind up a nonbattle casualty. Recent surgery removed the entire kneecap and made it possible for me to walk once again without limp or pain. Kitty was with me during a post-surgical checkup in late July, when the doctor pronounced the knee "as close as it ever will be to God's work." In the car en route home, she turned to me and softly said, "You've been aching to go, and now you can." I nodded and had to admit, "An old soldier never really fades away."

Kitty had no objetcion to my going to Vietnam. She just didn't want me to go without her. We both knew that as a general officer on active duty, I could officially request permission to visit Vietnam, but she would have to stay behind.

My wife is a quiet, determined woman. Less than a week after the knee checkup, she had arranged with LOOK to accompany me to Vietnam as a correspondent, with the stipulation that all payment for this article be turned over to the United Service Organizations for distribution to the USO facilities serving our men in Vietnam.

Kitty was invaluable on the trip. A professional writer for more than 20 years, she is a trained observer and, in the evenings, when we mulled over where we had been and what we had seen, I found she had often picked up details that I had missed. She was great for morale, particularly in hospitals, where she paused for unhurried chats with the wounded, and at isolated outposts in the boondocks. Kitty felt she wanted to do something special to justify her presence. She decided that upon our return, she would communicate with the family of every serviceman to whom she talked in Vietnam. Whenever she volunteered to give a personal message to the folks back home, she was surrounded by the homesick, and at last count, she had telephoned or written a personal letter to 917 families.

Those fine young men out there did something for our morale too. One night at Pleiku, after an exhausting day in the central highlands and after a sobering but otherwise uneventful oil-line failure while helicoptering over Vietcong territory, we talked quietly about the brave men and how selflessly they worked, the gruesome scars of war all around, the now-familiar grumbling of nearby artillery, the Vietcong mortar bursts on a motor pool at Saigon's Tan Son Nhut Airport as we were landing. And Kitty, who had never before been this close to battle, said: "If something should happen, and we should die, at least we are in good company—each other's and these wonderful men fighting here." I agreed.

Gen. William C. Westmoreland, our commanding general in Vietnam, met us at the airport when we arrived August 17. I had known him as Cadet Westmoreland 32 years ago, when I was on the West Point faculty, and our paths have crossed several times since. He looked fit. We later were told that he gets out into the field with his men several times a week. I know that wherever we went, there was nothing but praise and affection for him. "Westy's been carrying this responsibility for three and a half years," one man said, "but he always has the drive and enthusiasm of a second lieutenant who arrived only yesterday."

From that day until August 30, when we left Vietnam, we stayed constantly on the go, traversing the country from one end to the other, keeping a schedule of 14 to 16 hours daily. We saw thousands of Americans—soldiers, sailors, marines, airmen, Seabees. We went to them where they live and fight—aboard a carrier, a fleet oiler, a hospital ship, a "Riverine" ship; in trenches, foxholes, dugouts, jeeps, tanks; at artillery positions, radar posts on hilltops, montagnard villages in the highlands, Special Forces camps on the South China Sea coast and in the waterlogged paddies of the Mekong Delta. We visited allied units—the South Vietnamese, Koreans, Filipinos and others. Everywhere, they seemed glad to see us and somehow managed to have a five-star flag or plate to greet us.

We mingled with villagers who have known nothing but war for a generation. At Plei Bong Hiot, a montagnard hamlet in the central highlands, all 376 inhabitants turned out to greet us. A montagnard band playing gongs scaled in size from saucers to manhole covers beat out an eerie tune, over and over, as we sipped rice wine from a communal jar through communal straws to become honorary members of the Bahnar tribe. The straws were plastic fuel tubes borrowed from our helicopters. Because the plastic tubes were transparent, the hamlet leaders could see whether we really drank or simulated drinking. My wife tried to fudge, but she got caught and there was no make-believe the second time. She said the rice wine tasted like a mixture of sake, tequila and helicopter fuel. At Edap Enang, a montagnard village in the same general area, we saw some 7,800 people who had been relocated because of military operations near the Cambodian border, where they formerly lived. These families are comfortably

housed, and each has its own vegetable patch. Some had run away at first, but when their crops sprouted, the runaways returned and began to take root in their new homes.

The noncombatant Philippine Civic Action Group was working closely with another village, made up of 491 refugee families. The Filipinos, doing what amounts to Peace Corps work under occasional fire, proudly showed us a new school where 1,000 children were being educated. Brig. Gen. Guadencio V. Tobias, the Philippine commander, demonstrated to us the self-government, sanitation and hygiene techniques his command is teaching the people.

Ambassador Ellsworth Bunker and General Westmoreland abided by my request to spend most of the time in the field. They arranged for two days of orientation briefings in Saigon, after which we flew north to Da Nang. Througout our travels in Vietnam, we were cloaked by the code name "Burma Road" for security reasons. Wherever we went, we were cordially received by the various commanders, who saw to it that we spent much of our time in no-holds-barred talking with their junior officers and enlisted men. We asked hard questions and got direct answers. They showed us the bad with the good and left it to us to decide how things stood on balance.

From Da Nang, we flew out to sea to the U.S.S. *Constellation*. She was circling with two other carriers in the Gulf of Tonkin, far north of the 17th Parallel dividing the two Vietnams. In the two days aboard, we questioned crew members, visited fliers in their ready rooms and saw several strikes launched against targets in the Hanoi area and elsewhere in North Vietnam. On one strike, one of our aircraft was shot down, but quick work by rescue helicopters plucked the two-man crew from jungle highlands. When we learned they were being returned to the carrier, Kitty begged to wait to see for herself that they were safe. We delayed our departure and were able to congratulate Cdr. Robin McGlohn of Balboa Beach, Calif., and Lt. (jg) James M. McIlrath of San Diego.

I never heard a pilot aboard the *Constellation* question the usefulness of what he is doing. One senior officer estimated that 100 times as much ammunition was being expended against our planes in the North as against our ground troops in the South. "That's a plus in itself," he said.

Back in Da Nang—after a stop at a field hospital to fix a tooth my wife broke in the jolt of the catapulted takeoff from the carrier—we were shown to our billets by Marine Maj. Charles Edwards of Raleigh, N.C. He casually mentioned that according to our Intelligence, the enemy might fire rockets at the base at any time, as they had done in July. He showed us the bunker in which we were to take cover if that happened. Kitty assured the major she has no sense of direction and wondered if in the event of a rocket attack, he could come and lead the way. "Yes, ma'am, if I'm alive," he replied earnestly. "I just wanted to show you, in case a rocket gets to me first."

At my request, the marines helicoptered us to a forward base for an open discussion with junior officers and enlisted men. About 25 assembled in a rattan hut that served as their mess hall. One of them, Cpl. Lester W. Shell, Jr., of Chesapeake, Va., a gangling 23-year-old, said the hardest job was identifying the Vietcong. They mingled with the rice farmers until dusk, and after dark, slipped into black pajamas, took up hidden weapons "and turned into VC's." Corporal Shell assured us that things were getting better because more farmers were reporting VC operatives as they developed trust in the marines. "When I arrived 11 months ago, we had to send out patrols in company size, about 160 men, and now we go on squad patrols, 12 to 15 men. That right there is progress."

Another member of this group, a sniper, showed us his weapon, a civilian rifle with a telescopic sight. He said: "Sometimes, we find a seat in a tree or a hole in the ground and just sit down and wait. Quite often, someone shows up. We're doing better. We're learning patience."

In Da Nang harbor, we went aboard the U.S.S. *Repose*, one of two hospital ships in the area. We had visited two general hospitals near Saigon, and we would go to field hospitals elsewhere, but the *Repose* offered prime insight into how quickly the wounded are treated. The speed is amazing. The secret is helicopters. The *Repose* has a heli-pad on its deck, just as the hospitals ashore have them on their grounds. The wounded go directly from the battlefield to the hospital. Rarely is ground transportation necessary. This means that except in very few cases, no man in the country is more than 30 minutes away from complete, expert medical care. Only 2.5 percent of the wounded admitted to a medical facility die. More than 40 percent of the wounded return to duty without being admitted to a medical facility. And over 80 percent of all wounded admitted to a medical facility are returned to their units. The effect on morale is evident. Kitty and I found most of the patients we visited in a cheerful bantering mood, and anxious to get back to their units and their work.

Wherever we ate, whether with officers or enlisted men, the chow was good. In my 56 years in the Army, I have never seen better fed men, in peace or war. Ninety percent of the meals served to American personnel in Vietnam are hot. It is commonplace, according to some men I talked with, to have a helicopter hover over an embattled unit and lower what my wife termed "a businessman's breakfast"—fruit juice, two soft-boiled eggs, buttered toast, marmalade and hot coffee.

At China Beach, near Da Nang, we visited with men enjoying a three-day respite from all duty. Kitty took on a couple of the GI's in Ping-Pong to put them at ease and encourage them to talk freely. We learned that like all servicemen, however dedicated, they count the days until they go home. In this war, except for key officers, they know exactly how long that will be. Our men go over for a one-year tour of duty unless they voluntarily extend. I asked one fellow how long he had to go, and he quickly replied, "Seventy-six days and a wake-up." Not 77 days, but 76 and a wake-up—a little auto-psychology, like setting a clock ahead, because it sounds shorter that way. But many found themselves irresistibly drawn back, like John Paul Vann of Littleton, Colo. He had served a military tour in Vietnam, gone home, left the service and signed on with Revolutionary Development. Marine M/Sgt. George A. Mitchell had been there for 2½ years, and when we asked him why, he said simply, "I want to see the job finished."

As times goes on, the steady flow of returning Vietnam veterans, currently at the rate of 50,000 a month, may give Americans a better picture of Vietnam. The quality of these young men, tempered by their travail and the ringside knowledge of the plight of those they fought to help, cannot but improve the quality of American society.

As we worked our way south from Da Nang, we spent most of a day with the South Korean forces headed by Lt. Gen. Chae Myung Shin. He commands more than 49,000 men and, from all reports, they are doing a superb job. One of his staff officers gave us an excellent briefing, winding up with the assurance that ROK forces are pleased to fight by our side to repay in some small measure all that the Americans did for their country when it faced a similar threat. The Koreans seem to have a special zest for their mission and a particular talent for keeping the highway open and driving the VC out of the coastal area in the central part of the country.

Here, as elsewhere, a strengthened effort is being made in Revolutionary Development, the program to provide a new life for villagers formerly under VC control. We visited one such village, where all the people turned out to meet us. They showed us what they were building—an infirmary, a bridge, a concrete road. This is the new concept, involving the villagers more deeply in the things they need. Foremost is security, provided by the villages' own Popular Forces.

At Nha Trang, we watched South Vietnamese soldiers training at the Noncommissioned Officers Academy. I was interested because the high caliber of our own military forces today is the result of such schools. I witnessed two combat problems conducted with live ammunition. They were impressive. Not only are the Vietnamese learning to defend themselves by fighting alongside our troops, but gradually they are adopting our methods.

In the heavily populated Mekong Delta, traffic is by water, and so is the war. Our Army and Navy have combined operations there, in the Riverine Force. Soldiers live abroad ship when not slogging the paddies and swamps, and sailors called "Seals" fight like the green-bereted Special Forces. These men are effectively hampering the movement of VC units and supplies. Navy personnel, accompanied by South Vietnamese civil officers, stop and search between 1,500 and 2,000 boats a day. Sometimes, they are fired on from the banks, but quite often our boats pull away without returning the fire to avoid hitting innocent civilians in the area.

As we traveled, I became increasingly aware that we are slowly but inexorably rolling the enemy back from the cities and the seacoast. His movement in areas he used to own is now severely restricted. Main force units inside the country, except up north near the Demilitarized Zone, generally stay under cover and keep shifting their bases to avoid detection and contact. The enemy's supply and communication routes, especially around Saigon and in the Mekong Delta, are being interdicted with improved efficiency. Because of his logistics problems in the midlands and down south, he has had to concentrate activity up north near the DMZ. There, the supply route is shorter. Except for that area and a few others, his regiments and battalions are splitting into small groups. "I can't find a fight," complained one American commander whose unit six months ago was battling for its life. One reason we invite attack is because we can react so quickly; in one Delta area, the VC assaults, usually limited to mortar fire, last no more than five minutes because by then our planes and artillery start pounding them. This is a far cry from early 1965, when North Vietnamese regulars and hard-core Vietcong sought to cut the country in two and, in the opinion of many observers, were dangerously close to succeeding.

Intelligence is the key. It seems to be improving as more captives and defectors appear. I have a hunch the other side is hurting a good deal more than it lets on. It may be, as I was told, that the enemy has reached the "crossover point" at which he is losing men through death, wounds, capture and defection at a faster rate than he can replace them by recruitment and infiltration. It seems unlikely that Hanoi can meet such manpower requirements for any protracted length of time. Ho Chi Minh's one hope is to hang on in the expectation that the American public, inadequately informed about the true situation and sickened by the loss in lives and money, will force the United States to give up and pull out.

A North Vietnamese captured this year told interrogators that anti-war demonstrations help sustain the morale of his people and the troops. This man, Nguyen Huu

Nghia, who speaks Russian and holds a Ph.D. degree in psychology, described demonstrations as "very effective" encouragement for the North Vietnamese. He compared the situation to that of France during the Indochina War. He said an anti-war movement in France started slowly, gained momentum and influenced the final outcome—French capitulation.

If the French pattern should be repeated, it would be a stigma the American people would have to bear forever. Pulling out now would break faith with those who have died there, with the families of those who have died there and with those who after much suffering are on the threshold of success. The Communists assuredly would take revenge against the South Vietnamese who cast their lot with us.

Neighboring nations like Thailand, which recently sent a regiment to fight and from whose territory most of the air strikes against the North are launched, would immediately face Communist infiltration and aggression. American influence would wane, not only in the Far East, but around the globe. Our integrity as a nation would be gravely questioned.

In Hanoi, there is no free press, radio or television to give uncensored sustained reports of what goes on behind the smoke screen of propaganda. But word leaks out. The port of Haiphong has become more a bottleneck than a distribution point. Haiphong's docks and streets are piled high with supplies requiring transshipment because the railroad to Hanoi is unserviceable. Trucks on the Hanoi-Haiphong route now average less than ten miles an hour because the highway is so torn up. U.S. bombing is paralyzing North Vietnam.

The Navy pilots my wife and I watched fly off the U.S.S. *Constellation*, as well as the Air Force crews that fly out of Thailand, have developed electronic gear and aerial tactics to escape antiaircraft fire, including Soviet-built surface-to-air missiles (SAM's). When we visited the carrier, the last full week's tally reported 128 SAM's fired; only one of them hit a plane.

"Stalemate" was a much-used word when we went to Vietnam. I don't call it stalemate when, almost everywhere, the enemy is avoiding contact and our troops are progressively digging him out and pushing him back. I don't call it stalemate when, by every measurement, the other side is getting weaker and we are getting stronger. This war is like no other in my experience. There are no great wall maps on which to draw lines and say, "Here is the front." The front is everywhere.

Captured prisoners tell a story of constant attrition. One man, taken in his first battle, said he had started out from Hanoi in a 300-man unit, but only 30 survived the six-week trek. Other prisoners said North Vietnamese soldiers sent south are told they are "mop-up troops" because the war is virtually won. Instead, infiltrators find they must live in the jungle, harassed by bombs, artillery and patrols, and soon they realize their mission is near-suicidal. Enemy defections under South Vietnam's *Chieu Hoi*, or "Open Arms," policy are stepping up. All these things tell a story, not of stalemate, but of an enemy that is hard pressed.

There was criticism, too, that we had little progress to show for the 13 years we have been in Vietnam. Actually, we only started building strength there two and a half years ago, and did not reach current force level until this year.

General Westmoreland first had to concentrate on building a logistics base. Once this base was laid down, he was able to take the initiative. He could begin rooting out and pushing back the Communists, while the South Vietnamese, learning to fight by our side, simultaneously developed a nation with a government more responsive to the needs and the will of the people.

In the process of creating logistical support for our troops, we have invested in South Vietnam's future. A short while ago, Saigon was the only major seaport, and there were only three airfields capable of handling jet aircraft. There are now six ports and eight jet fields, several with two runways. These tremendous resources back up more than the U.S. forces. They support allied troops, the South Vietnamese military effort, American civilians and the South Vietnamese economy. When the war is over, this nation will have a floor on which to build.

Flying over Camranh Bay, once little more than sand and water and now a teeming complex of American power, I was struck by a thought: What if the other side could see what it is up against? Why not invite Ho Chi Minh down south and grant him immunity and every possible protection? Let him see the dug-in magnitude of our effort. If Ho would take the trip I took, he would realize the futility of continuing the war.

Before we went to Vietnam, we heard critics say that Hanoi would agree to truce talks if we would stop the bombing. Maybe, I do know that previous bombing halts did not have this result. The mud-spattered GI's in the central highlands near Dragon Mountain and the marines up at the DMZ know that the tons of ammunition being expended against our planes would be coming down the trail to be fired at them. They know the vast manpower kept occupied by the raids would be free for use against them. It is not academic, up where the fighting is.

Two weeks in Vietnam do not make me an expert. But I have seen battlefields before. What this war needs more than anything else, I believe, is home-front understanding. I would like to see the people at home more deeply involved in Vietnam. Even those opposed to the war cannot be opposed to the men fighting it. My wife Kitty has suggested that women's clubs take a few minutes off from their bridge sessions to write letters to our men in the field. Marines in Vietnam receive 150 pounds of cookies every month from 231 citizens of little Dayton, Wyo.; they demolish the cookies but their gratitude to Dayton is indestructible. Other Americans are shipping soap for the war refugees. These are relatively small in themselves, but as symbols of an America that cares, they are important. What we do does not matter as much as that we do it.

On our last evening in Saigon, Ambassador Bunker showed Kitty a definition of Freedom I wrote many years ago: "Freedom—No word was ever spoken that has held out greater hope, demanded greater sacrifice, needed more to be nurtured, blessed more the giver, damned more its destroyer, or came closer to being God's will on earth. May Americans ever be its protector."

We are a free people, a learning people. As pilgrims, we learned to farm. As colonists, we learned to govern. As immigrants, we learned new ways. As pioneers, we learned the wilderness. As victors, we learned that the need of a great war does not mean peace.

History, I believe, will judge that, alongside Berlin, Greece, Cuba and Korea, Vietnam was one of our finest hours. We did not flinch. Or it will say that the Communists are right, and History will belong to them.

THE ROLE OF THE STATES IN THE FORMULATION OF A NATIONAL POWER POLICY

Mr. MAGNUSON. Mr. President, the Committee on Commerce is studying S. 1934, the Electric Power Reliability Act. We have held hearings in Washington and will soon commence hearings in the field. In connection with our study I have frequently called on all interested parties to study the bill and give us the benefit of their suggestions. We have been pleased that Chairman Lee C. White, of the Federal Power Commission, has arranged to meet with every interested group to explain and discuss this important measure. We hope, through our field hearings, to secure many constructive ideas for improvements in the bill. I am glad to report, therefore, that the National Association of Railroad and Utilities Commissioners is studying the bill. In a recent speech before the Federal Bar Association, the president of NARUC, the Honorable Frederick N. Allen, reported the appointment of a special committee to study the provisions of S. 1934. He expressed the view that—

> This is not merely any piece of legislation now before the Congress, but . . . can bring up-to-date in 1967 the proper role of our [State and Federal] commissions which, up to now, have been operated on guidelines set down by court and commission cases dating to the misty past of the early 1900's.

Says President Allen:

> Regulation cannot and will not survive unless it has the ability to properly adapt itself to the technological progress which is evident in every type of utility endeavor.

President Allen's speech provocatively suggests that S. 1934 might be oriented more decisively toward a joint Federal-State effort. In order that the suggestion may be widely considered, I ask unanimous consent that the speech be printed in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE ROLE OF THE STATES IN THE FORMULATION OF A NATIONAL POWER POLICY

(By Frederick N. Allen, president, National Association of Railroad and Utilities Commissioners, before the Federal Utility and Power Law Committee, Federal Bar Association, Washington, D.C., October 16, 1967)

Mr. Moderator, distinguished guests, my friends of the Federal Bar Association:

I am indeed delighted to be in Washington this afternoon as a participant on this panel dealing with the formulation of a national power policy and to specifically speak to you for a few minutes of the role which I feel is proper for the State commission to play in this all important area of regulation. Certainly every day and every week which passes in a Nation whose growth is never-ending adds to the many problems in the generation and distribution of electric power, and brings with it greater responsibilities to the regulatory commissions whose duty is to supervise this very fundamental and vital necessity of our economy.

It is needless to say that in the 1960's we are faced with a great challenge in our attempt to formulate, develop, and carry out a policy relating to power which will be adequate to properly serve every city, town and village in the United States. Certainly there is no doubt in my mind that before we can ever hope to achieve a national power policy as such, we must solve two basic fundamental problems.

Number One—the inability of the private and the public electric utilities to work cooperatively together in a common planning effort, and

Number Two—the inability of the Federal Power Commission and the State commissions to agree on mutual guidelines as to their appropriate regulatory function. Unless we solve these two basic problems, we might just as well forget the establishment of a national power policy and a resulting

electric grid to serve efficiently and effectively the needs of this Nation. And, with the exception of an adequate supply of water, there is nothing more basic to our survival than is power.

I have no intention of going into detail today in a discussion of our complaints about the jurisdictional takeover by the Federal commissions in the last thirty years of several areas once regulated by State commissions, but I say that now is the time for the Federal and State commissions to review and reconstruct the proper role of each in the regulation of electric energy in this country, and I am glad that we now have before the Congress a proposal by the Federal Power Commission which would add a new Part IV to the Federal Power Act dealing with electric power reliability, for I feel this very broad and comprehensive piece of legislation can be the vehicle by which a proper delineation can be made between the rights and duties of the Federal commission as against those of the commissions of the several States. I say this because even a cursory glance at the Bill would indicate clearly the very sweeping authority it would give to the Federal Power Commission and the virtual absence of any reference to the State commissions, and then only in a general "to be consulted" vein.

This Bill, S. 1934, literally covers the complete field of regulation of the electric industry and as such, even though in its present very broad form is no doubt unpalatable to almost all of us in some degree and in some fashion, it can, nevertheless, be the vehicle by which we can set permanent guidelines at a time when the expanding economy of the Nation demands that the regulatory commissions carry out their functions to the betterment, not to the detriment of our people. I sincerely believe that the regulatory commissions, both Federal and State, by their insistence on carrying out administrative policies of some twenty and thirty years ago, have been a deterrent to the orderly development of all utilities, including the electric industry.

What can the States do in this area and what is being done at the present time?

Last June, Chairman White invited me to bring to Washington a group of commissioners from our State commissions for a briefing on this legislation. As a result of our discussions there and of a very thorough discussion before the NARUC Executive Committee in Seattle in July, I appointed a special committee to study the provisions of S. 1934, feeling, as I have said before, that this is not merely any piece of legislation now before the Congress, but does in fact cover all areas of the regulation of the entire industry, and can bring up-to-date in 1967 the proper role of our commissions which, up to now, has been operated on guidelines set down by court and commission cases dating to the misty past of the early 1900's.

Regulation cannot and will not survive unless it has the ability to properly adapt itself to the technological progress which is evident in every type of utility endeavor. I can think of nothing more appropriate than to quote from the 1966 Annual Report of the Public Service Commission of New York where Chairman James A. Lundy said: "Technological change presents perhaps the clearest example today of the need for updating old approaches."

There is no doubt that we in the State commissions felt we lost an appropriate area of jurisdiction in the decision of the United States Supreme Court in the Colton Case which gave the Federal Power Commission complete jurisdiction over wholesale electric rates. We felt and still do that the regulatory agencies at the State level were in a far better position to approve such filings than was the FPC. This is water over the dam and I would be the last to say that we should moan about the past but that we should look confidently to the future, convinced that there is an area which can properly be handled by the State commissions in the field of electric generation and distribution without in any way reducing the appropriate functions of the Federal Power Commission in its overall responsibilities to the national picture and thus contribute to a national policy.

Our State commissions, in a survey conducted by the NARUC in August of 1967 indicated without exception that they do have appropriate jurisdiction in the field of reliability. And so, I am sure that in the consideration of the State commission position in the formulation of a national power policy, we will take the findings of our task force working now on the electric reliability legislation and from these findings a clearer picture will emerge as to the logical areas of such jurisdiction.

One of the possible avenues of approach to effectively carry out the provisions of the Act might be to set up a Federal-State joint board which would have authority to pass judgment on the establishment and operating procedures of the proposed Regional Councils. As I envision this possibility, there would be representation from the State commission involved within the geographical area encompassed by the Regional Council and, of course, a representative from the Federal Power Commission, who probably would act as chairman of the board.

As you are aware, the joint board theory, although it is obviously modified from this which I propose today, has been used extensively in proceedings of the Interstate Commerce Commission in matters of transportation for many years. Most of our State commissions have enthusiastically participated and almost without exception everyone is agreed, at both the State and Federal levels and in the industry itself, that the joint board procedure has made for fundamentally sound decisions in literally thousands of cases.

This, as I say, in perhaps a very rough sense, is one avenue of approach in integrating the Federal and State responsibilities into the matter of electric reliability.

The history of regulation of the electric industry in the United States basically is no different than the regulation of any other utility or transportation service. Certainly no one will argue but what the local areas concerning rates and appropriate service should be vested under the full control of our State commissions and that the flow of energy across State boundaries in interstate commerce obviously falls properly under the Federal Power Commission.

And so, as we delve into the area of reliability, prodded as we all were by the Northeast Blackout of two years ago, we do find immediately some real soft spots in our assessment of the total picture. In many areas of the country we have private and public utilities not only refusing to cooperate in joint planning or transmission or generating facilities but literally battling each other at swords' point which can only result in a very weak and vulnerable system.

For example, in my own area of New England where the investor owned utilities are admittedly doing an excellent job in the development of nuclear energy plants, they are, nevertheless, involved in a very bitter struggle with the advocates of public power and the municipal co-ops concerning not only the construction of Federal projects such as Dickey-Lincoln, but also concerning the additional atomic plants which are in the planning stage for all six States. There seems to be very little progress being made in the attempts to get the investor owned utilities and the public utility groups together in a realistic way to speed up much needed development of not only generating facilities but adequate transmission lines linking the territory.

In other sections of the country it is, of course, a matter of record that the Northwest Power Pool includes investor owned utilities in Washington and Oregon, for example, working side by side with the public utility districts and other publicly operated generation, transmission and distributing companies. Similarly, of course, since the development of the TVA many years ago, there is perhaps a greater degree of effective planning in that area among the private companies and the government operations.

This is just one more reason why I feel it is extremely important that the guidelines for setting up these Regional Councils under the proposed legislation will require different approaches in different parts of the country, and certainly there is no disinterested party in a better position to play a key role in the setting up of these Regional Councils than the State commission.

What is this national power policy that we are discussing? What does it mean? What should it do? And what should the States' role be in the formulation?

Well, we are right back to the title of my comments this afternoon as assigned to me by your group, and I think we perhaps should find the proper role of the State commissions by examining what they have done in the way of regulation of the electric industry since the first, modern day commissions were established in the early 1900's.

The State commissions, strangely enough in the first instance, were established at the insistence of the electric and gaslight utilities for the very purpose of limiting competition. So, from the beginning the commissions were concerned with local franchises, territory, local rates and local service, and the elimination of competing or duplicating light, gas, and phone companies in the same general area.

From that point, over the years, the commission has been watchdog at the local level to make sure that in return for the monopoly granted it by the State, the utility would properly serve its customers in a given territory with adequate service and reasonable rates; and this, in a simplified and very fundamental way, is what our function must be, whether we are talking about fifty years ago or fifty years hence.

Because of this, and because of the very vital need to keep regulatory control as close to the people as possible, I feel a national power policy must be developed from facts as they are at the local level, not from arbitrary dictates out of Washington which may prove unworkable. And I feel that the National Association of Railroad and Utilities Commissioners, the official organization of our State and Federal commissions, working first on this reliability legislation, S. 1934, and later in a continuing reevaluation of our present day operations, can very materially clear the air as to the relationship of the State and Federal domains and can refine the regulation of the electric industry to the advantage of utility and ratepayer alike.

We are all aware, I believe, that in the field of communications, the NARUC, the telephone industry, and the FCC have been working since the early 1930's on the matter of separations of interstate and intrastate plant, and developed a formal plan as early as 1947 which has been refined from time to time over the last twenty years.

So what has happened since that time? We have worked continuously and cooperatively, the State commission, the Federal commission, and industry, on a job of refining this very basic and necessary data so that there can be a more appropriate and accurate separation of interstate and intrastate telephone plant.

Now, very frankly, gentlemen, I cannot see any reason in the world why the regulation of the electric industry cannot follow the same general lines, and I am convinced that if we all take a cue from the communications regulation over the years, we will arrive at a position of betterment for every-

one concerned. I really sincerely believe the State commissions and the FPC, together, must seek a common ground from which it is possible for both to carry out their assigned tasks without either usurping the appropriate role of the other. We cannot expect the industry to cooperate if we in regulation are miles apart in our thinking.

The big investor owned utilities have looked down their noses at the municipals and co-ops and yet, in every State they are the same utilities which have refused to go in and serve sparsely settled territory. The co-ops and the municipals in as just an arbitrary and antagonistic attitude have certainly lambasted privately owned utilities as "big, bad business," with the emphasis on "big" and "bad."

I would say that right now would be an opportune moment for me to give you a little quotation which I read in the Reader's Digest: "The greatness of a man can nearly always be measured by his willingness to be kind." It certainly would appear that we need a little bit more kindness amongst all of us and then things might be a little bit easier, not only in the field of regulation but in the art of living and working together.

And so in these few minutes today, I am sure I have not—but it is because I cannot—indicated to you clearly and concisely a definitive guide as to what the State commissions should be doing in this area, but I do feel that within a year or two, perhaps within a shorter period, we will, with the cooperation of the Federal Power Commission, the Congress, and all segments of the electric industry, be able to delineate, at least to a certain degree, an area where the regulatory function should be carried out by the State, and define more clearly the areas which should be left to the FPC.

I am hopeful the Congress, which has in the past two years shown a bit more sympathy for the capability of our State commissions, has come to realize that we still can be very vital and much needed institutions. The regulatory function of government is more needed today than it was in the years between 1910 and 1920 when most of our State commissions were established. No phase of government, no function of government, can suffer more by having all the shots called from Washington than can the State regulatory agencies. Regulation must, in its most fundamental sense, be close to the people and to their problems.

AMENDMENT OF THE CONSTITUTION BY CONVENTION

Mr. ERVIN. Mr. President, I invite attention to an editorial published in the Washington Post on Wednesday, November 1, 1967, commenting on the hearings held on October 30 and 31, by the Senate Subcommittee on Separation of Powers on the subject of amendment of the Constitution by a national convention called by Congress upon the application of two-thirds of the State legislatures, as provided by article V.

The editorial suggested that the subcommittee should not limit its hearings to a consideration of Senate bill 2307, which would set up guidelines for a possible constitutional convention called by the States, but should also consider the possibility of amending article V to eliminate the convention method of proposing amendments, which, according to the editorial, "was sandwiched into the Constitution as an afterthought." The editorial further suggests that if Congress is unable to delete the constitutional convention provision from article V by amendment, "the second best course would be to interpret it so strictly that the States would be loath to try to use it."

Mr. President, the editorial was constructive in one respect, but shocking in other respects.

It was constructive in suggesting an amendment to article V. Since the convention method of proposing amendments has never been used and so many vexing questions concerning it remain unanswered, there are grave dangers in resorting to it now. It would be helpful, therefore, to clarify the procedure by amendment or, if the provision is adjudged an anomaly, to delete it altogether and rely upon the other method of amendment by congressional proposal and State ratification.

The editorial was shocking in its misstatement of history concerning the framing of article V. Far from being an "afterthought," the method of amendment by State initiation and State ratification was the sole amendment procedure set forth in the version of article V first adopted by the 1787 Convention. The National Legislature was to be excluded altogether from the amendment process. Upon reconsideration, however, it was urged that Congress be empowered to propose amendments to the States for their approval. The final draft read in terms of alternative methods. Two-thirds of each House of Congress or two-thirds of the State legislatures could propose amendments which, in either case, would require ratification by three-fourths of the States. The debates show clearly that the two methods of proposing amendments were intended by the Framers to operate as parallel procedures, neither more difficult of achievement than the other. Historically, the article has not operated that way, of course, but this should not be taken to suggest that proposal by Congress was felt to be the "regular" method of amendment and proposal by the States an "afterthought."

The editorial was most shocking, however, in its suggestion that, if Congress could not amend article V by the appropriate amendment process, it should in effect do so by enacting "implementing" legislation so restrictive as to preclude the enforcement of the constitutional mandate to call a convention if enough States apply. Such a course would be a flagrant disavowal of the clear language and intent of the article.

As I have pointed out, the convention method of amendment was meant to be an attainable means of constitutional change. It was meant to enable the States to initiate the proposal of amendments deemed necessary to remedy excesses of power in the National Government, since it was considered unlikely that the National Legislature would propose amendments to curb national power. I think that reason is valid still; but if Congress should conclude otherwise, the convention method of amendment should be deleted. Those are the only two honest alternatives, however, to delete the provision from article V by constitutional amendment or, failing that, to make provision for effectuating—not destroying—the constitutional provision for amendment by State action.

The mandate in article V is clear. Congress should not attempt to circumvent its obligation by placing as many hurdles as possible in the way of effective use of this perfectly legitimate amendment procedure.

Mr. President, I ask unanimous consent that the Washington Post editorial to which I have referred be printed in the RECORD following my remarks. I also ask unanimous consent that there be printed in the RECORD at that point a discussion of the history of the adoption of article V written by Prof. Philip B. Kurland, chief consultant to the Subcommittee on Separation of Powers. The discussion appeared as the preface to a chapter, edited by Professor Kurland, on "Article V and the Amending Process" in "An American Primer," University of Chicago Press, 1966, pages 130 to 138.

It should be useful in clarifying the historical misconceptions about article V which apparently are entertained by persons both within Congress and outside it.

There being no objection, the editorial and discussion were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 1, 1967]

AMENDMENT CONTROVERSY

The Senate Judiciary Subcommittee on the Separation of Powers is quite properly focusing attention on the controversy over how the Constitution may be amended. But it ought not to limit its hearing to the highly dubious Ervin bill intended to set up guidelines for a possible constitutional convention to be called by the states. It would be far more useful to talk about the elimination of this Achilles' heel from the charter of 1787.

The Subcommittee's hearings are timely because 32 states have petitioned Congress to call a constitutional convention to undo the Supreme Court's equal-representation rulings. There are many indications that this movement is already dead because the two additional state petitions needed to make a two-thirds majority are not likely to be forthcoming and some of the existing petitions are likely to be rescinded next year. But if the two additional votes should be obtained Congress would be embarrassed by numerous unanswered questions.

The Constitution says that Congress "shall call a Convention for proposing Amendments" whenever two-thirds of the states request it. Presumably Congress would decide when and where such a convention should be held. But there is nothing to indicate whether Congress could limit the convention to amendments proposed in the petition, whether the petitions would have to be identical, how the convention would vote and so forth. Senator Ervin's bill is an attempt to answer these questions and thus to avoid a period of chaos if two-thirds of the states should ever agree on such a petition, which they have never succeeded in doing in the past. But at least one provision of his bill—that each state in such a convention have but one vote, determined by the majority of its delegates—is a flagrant flouting of democratic principle. Another of his provisions—that Congress could veto amendments proposed by a convention if it should exceed the scope of the mandate given it by Congress—would raise grave questions of constitutionality.

The best thing to do with this alternative method of proposing amendments, which was sandwiched into the Constitution as an afterthought, would be to repeal it. The regular method of having amendments proposed by two-thirds of the Senate and House and ratified by three-fourths of the states has worked well. There is no occasion for

deviation from it. Indeed, the idea of changing the Constitution by action of the states alone, with Congress merely arranging details of the meeting, is an absurdity in the present posture of Federal-state relations. If Congress is not ready to wipe out this constitutional defect, the second best course would be to interpret it so strictly that the states would be loath to try to use it.

ARTICLE V AND THE AMENDING PROCESS

(Edited by Philip B. Kurland)

However natural it may now seem for the Constitution to provide for its own amendment, we should remember Holmes' warning against confusing the familiar with the necessary. There are other, more recent, national constitutions that make no such provision. The nature of the political compromises that resulted from the 1787 Convention was reason enough for those present not to tolerate a ready method of undoing what they had done. Article V, like most of the important provisions of the Constitution, must be attributed more to the prevailing spirit of compromise that dominated the Convention than to dedication to principle.

Although the original Virginia Plan provided for a method of amendment, the first essential question resolved by the Convention was whether any method of amendment should be provided. Despite strong opposition from men such as Charles Pinckney of South Carolina, the Convention soon agreed in principle to the desirability of specifying a mode for amendment, with Mason, Randolph, and Madison of Virginia, Gouverneur Morris of Pennsylvania, Elbridge Gerry of Massachusetts, and Hamilton of New York leading the Convention toward accepting the necessity of such a provision.

The Virginia Plan not only specified an amendment process but provided also that the national legislature be excluded from participation in that process. And it was on the question of the proper role of Congress that the second major conflict was fought. When first reported by the Committee of Detail, the provision called for amendment by a convention to be called—apparently as a ministerial action—by the national legislature on application of the legislatures of two-thirds of the states. Although this plan was first approved, the issue was again raised on Gerry's motion for reconsideration, seconded by Hamilton, and supported by Madison.

On reconsideration, Sherman of Connecticut sought to have the power given to the national legislature to propose amendments to the states for their approval. Wilson of Pennsylvania suggested that the approval of two-thirds of the states should be sufficient, and when this proposal was lost he was able to secure consent to a requirement of three-fourths of the States. At this point Madison offered what was in effect a substitute for the Committee of Detail's amended recommendation. It read, as the final draft was to read, in terms of alternative methods. Two-thirds of each house of Congress or two-thirds of the state legislatures could propose amendments. The amendments were to be ratified when approved either by three-fourths of the state legislatures or by conventions in three-fourths of the states. This compromise eventually overcame the second difficulty. By providing for alternative methods of procedures, the Madison proposal also made possible the compromise between those who would, from fear of the reticence of the national legislature to correct its own abuses, utilize the convention as the means of initiating change, and those who, like Mason, wanted the national legislature to be the sole sponsor of amendments.

This compromise did not, however, end the disputes over the content of the amendment article. Rutledge of South Carolina insisted that approval could not be forthcoming if the provisions relating to slavery theretofore approved were to be subject to amendment. Again compromise carried the day and it was decided that these sections of the Constitution were not to be subject to amendment prior to 1808. Having learned that state interests could be protected against amendment, at least for some period of time, Sherman moved that the Constitution should not be subject to amendment to limit the internal authority of the states nor to deprive any of them of their equal representation in the Senate. A different form of compromise was the result of this effort.

Sherman lost in his effort to secure the states against interference with the exercise of their police power, but he won a guaranty that the right of equal representation in the Senate should not be changed. The latter protection, it quickly became apparent, was absolutely necessary to assure approval by the small states that had backed the New Jersey Plan, and it was written into the Constitution without a single objection.

Article V, which resulted from these deliberations, must be attributed largely to Madison, with the obvious active participation of Hamilton.

The Congress, whenever two thirds of both Houses, shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.

RACIAL IMBALANCE IN THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS

Mr. BYRD of West Virginia. Mr. President, last week during hearings by the Subcommittee on Appropriations for the District of Columbia I expressed my opposition to the transportation of students to public schools in the District of Columbia for the purpose of overcoming racial imbalance.

I ask unanimous consent to insert in the RECORD pertinent excerpts from those printed hearings.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

BUSING STUDENTS

Senator BYRD. Yes. All right, now let's talk about the busing of students. You wrote to me on August 31 stating that the total of 1,782 children—let me read the sentence:

"The public schools plan to rent buses to transport a total of 1,782 children from overcrowded to underpopulated schools."

You also stated that the total annual cost of all transportation is estimated to be about $378,338. Do you have any sharper figures now, Mr. Henley?

Mr. HENLEY. We are busing 1,322 elementary school children, approximately. I am not certain on the junior high but approximately 400 junior high school children, and we are supplying bus tickets for a little over 300 secondary school students.

COST OF BUS TRAVEL

Senator BYRD. What is the cost? What will be the annual cost?

Dr. CARROLL. We have not reprojected these costs since our original estimate. We could reproject that and give you a sharper figure. I am thinking about $400,000. It is up slightly.

Senator BYRD. About $400,000.

Dr. CARROLL. Approximately that.

Senator BYRD. This amounts to about $200 per pupil, doesn't it?

Dr. CARROLL. 2,000 pupils, it would run pretty close to that; yes, sir.

Senator BYRD. $200 per pupil.

Dr. CARROLL. Yes.

Senator BYRD. This is a pretty costly venture for an experiment in folly. Where do you propose to get this money?

FUNDS FROM IMPACT AID

Dr. CARROLL. This money is all at the present time out of impact aid, which is the only funds available to the board for this purpose.

Senator BYRD. How long will that last?

Dr. CARROLL. Well, it will last. We have enough money to continue this, and I think the total funds availability will increase to a somewhat higher level next year and the year following so we could probably retain at this level for some time.

HEW REPORT LANGUAGE

Senator BYRD. Are you aware of the language in the HEW Appropriations Committee report?

Dr. CARROLL. I am aware of that. I wasn't aware that this was applying to the provision of Public Law 874 funds to schools.

Senator BYRD. I would like to put that language in the record.

The information follows:

"EXCERPT FROM HEW REPORT

"The committee recommends that no funds herein provided for the Office of Education shall be used for busing of public school students or for any other activities calculated to eliminate racial imbalance in the public schools."

ATTITUDE OF SUBCOMMITTEE ON BUSING

Senator BYRD. You are aware of this subcommittee's opposition to the busing of students.

Dr. CARROLL. Yes.

Senator BYRD. To eliminate racial imbalance.

Dr. CARROLL. Yes, sir.

Senator BYRD. You are aware of the language in the 1964 Civil Rights Act which essentially stated that desegregation was not to mean the elimination of racial imbalance in the public schools, are you not?

Dr. CARROLL. I am not sure that I have read that particular area. I think I have heard discussions on it.

Excerpt from act follows:

"TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

"Definitions

"SEC. 401. As used in this title—

"(a) 'Commissioner' means the Commissioner of Education.

"(b) 'Desegregation' means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but 'desegregation' shall not mean the assignment of students to public schools in order to overcome racial imbalance."

EXCERPT FROM SENATE FLOOR COLLOQUY

Excerpts from the floor colloquy during the debate on the 1964 Civil Rights Act, as it appeared in the Congressional Record of June 4, 1964, are reprinted as follows:

"Mr. BYRD of West Virginia. Can the Senator from Minnesota assure the Senator from West Virginia that under title VI schoolchildren may not be bussed from one end of the community to another end of the community at the taxpayers' expense to relieve so-called racial imbalance in the schools?

"Mr. HUMPHREY. I do.

"Mr. BYRD of West Virginia. Will the Senator from Minnesota cite the language in title VI which would give the Senator from West Virginia such assurance?

"Mr. HUMPHREY. That language is to be found in another title of the bill, in addition to the assurances to be gained from a careful reading of title VI itself.

"Mr. BYRD of West Virginia. In title IV?

"Mr. HUMPHREY. In title IV of the bill.

"* * * * * *

"Mr. BYRD of West Virginia. But would the Senator from Minnesota also indicate whether the words (in title IV) would preclude the Office of Education, under section 602, of title VI, from establishing a requirement that school boards and school districts shall take action to relieve racial imbalance wherever it may be deemed to exist?

"Mr. HUMPHREY. Yes. I do not believe in duplicity. I believe that if we include the language in title IV, it must apply throughout the act."

FUNDS IN 1969 BUDGET FOR BUSING

Senator BYRD. I think I put this in the record earlier this year. Do you plan to ask for any money in your 1969 budget for the purpose of busing students?

Dr. CARROLL. Yes. It has not gone to staff or to the board at the present time, but the present plans are to at least bring it to the board and I am sure that the board will request it.

Senator BYRD. But I am just as sure that this subcommittee will strike it out.

Dr. CARROLL. Yes, sir.

Senator BYRD. If I have anything to do with it. As long as I am chairman of this subcommittee, I am going to recommend against the use of public moneys in this bill for the busing of students to eliminate racial imbalance in the schools.

This hasn't been required by any Supreme Court decision. It wasn't required in the *Bolling* v. *Sharpe* case, and it hasn't been required by any congressional statute. As a matter of fact, the Congress has spoken in at least one piece of legislation and in the HEW appropriations committee report in such a way as to indicate its intent that moneys are not to be used for busing students to eliminate racial imbalance.

I think it is simply preposterous to spend $200 per student to bus students to eliminate racial imbalance. I am not opposed to integrated schools *per se*. I am in favor of upgrading our schools, and against forced integration of schools. The U.S. Supreme Court hasn't ruled against racial imbalance. It only ruled against discrimination and against forced segregation. It prohibited governments from fostering and requiring racially segregated public schools.

The case decision follows:

"[Bolling *v.* Sharpe: Syllabus]

"BOLLING ET AL. *v.* SHARPE ET AL., CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

"(No. 8: Argued December 10–11, 1952—Reargued December 8–9, 1953.—Decided May 17, 1954)

"'Racial segregation in the public schools of the District of Columbia is a denial to Negro children of the due process of law guaranteed by the Fifth Amendment.' Pp. 498–500.

"'(a) Though the Fifth Amendment does not contain an equal protection clause, as does the Fourteenth Amendment which applies only to the States, the concepts of equal protection and due process are not mutually exclusive.' P. 499.

"'(b) Discrimination may be so unjustifiable as to be violative of due process.' P. 499.

"'(c) Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause.' Pp. 499–500.

"'(d) In view of this Court's decision in *Brown* v. *Board of Education, ante,* p. 483, that the Constitution prohibits the States from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government.' P. 500.

"'(e) The case is restored to the docket for further argument on specified questions relating to the form of the decree.' P. 500.

"George E. C. Hayes and *James M. Nabrit, Jr.* argued the cause for petitioners on the original argument and on the reargument. With them on the briefs were *George M. Johnson* and *Herbert O. Reid, Jr. Charles W. Quick* was also on the brief on the reargument.

"Milton D. Korman argued the cause for respondents on the original argument and on the reargument. With him on the briefs were *Vernon E. West, Chester H. Gray* and *Lyman J. Umstead.*

"By special leave of Court, *Assistant Attorney General Rankin* argued the cause on the reargument for the United States, as *amicus curiae,* urging reversal. With him on the brief were *Attorney General Brownell, Philip Elman, Leon Ulman, William J. Lamont* and *M. Magdelena Schoch, James P. McGranery,* then Attorney General, and *Philip Elman* filed a brief on the original argument for the United States, as *amicus curiae,* urging reversal.

"Briefs of *amici curiae* supporting petitioners were filed by *S. Walter Shine, Sanford H. Bolz* and *Samuel B. Groner* for the American Council on Human Rights et al.; by *John Ligtenberg* and *Selma M. Borchardt* for the American Federation of Teachers; and by *Phineas Indritz* for the American Veterans Committee, Inc.

"MR. CHIEF JUSTICE WARREN delivered the opinion of the Court.

"This case challenges the validity of segregation in the public schools of the District of Columbia. The petitioners, minors of the Negro race, allege that such segregation deprives them of due process of law under the Fifth Amendment. They were refused admission to a public school attended by white children solely because of their race. They sought the aid of the District Court for the District of Columbia in obtaining admission. That court dismissed their complaint. The Court granted a writ of certiorari before judgment in the Court of Appeals because of the importance of the constitutional question presented. 344 U.S. 873.

"We have this day held that the Equal Protection Clause of the Fourteenth Amendment prohibits the states from maintaining racially segregated public schools.[1] The legal problem in the District of Columbia is somewhat different, however. The Fifth Amendment, which is applicable in the District of Columbia, does not contain an equal protection clause as does the Fourteenth Amendment which applies only to the states. But the concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive. The 'equal protection of the laws' is a more explicit safeguard of prohibited unfairness than 'due process of law,' and, therefore, we do not imply that the two are always interchangeable phrases. But, as this Court has recognized, discrimination may be so unjustifiable as to be violative of due process.[2]

"Classifications based solely upon race must be scrutinized with particular care, since they are contrary to our traditions and hence constitutionally suspect.[3] As long ago as 1896, this Court declared the principle 'that the Constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the General Government, or by the States, against any citizen because of his race.'[4] And in *Buchanan* v. *Warley,* 245. U.S. 60, the Court held that a statute which limited the right of a property owner to convey his property to a person of another race was, as an unreasonable discrimination, a denial of due process of law.

"Although the Court has not assumed to define 'liberty' with any great precision, that term is not confined to mere freedom from bodily restraint. Liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a proper governmental objective. Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause.

"In view of our decision that the Constitution prohibits the states from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government.[5] We hold that racial segregation in the public schools of the District of Columbia is a denial of the due process of law guaranteed by the Fifth Amendment to the Constitution.

"For the reasons set out in *Brown* v. *Board of Education,* this case will be restored to the docket for reargument on Questions 4 and 5 previously propounded by the Court 345 U.S. 972.

"It is so ordered."

BUSES TO RELIEVE OVERCROWDING

Dr. CARROLL. Some of the funds for the busing is not for the purpose of integration, but have been used to relieve overcrowding.

Senator BYRD. Pardon me?

Dr. CARROLL. Have been used only to relieve overcrowding. For example, 400 junior high school students.

Senator BYRD. Yes, I know. Dr. Hansen told me about that.

Dr. CARROLL. Yes, sir.

Senator BYRD. You were busing students, I think, to about 18 schools.

Dr. CARROLL. Yes, sir; approximately that.

Senator BYRD. To relieve overcrowding.

Dr. CARROLL. That was to relieve overcrowding in these cases; yes, sir.

Senator BYRD. Yes, but it is not being done here now under the pretext of simply relieving overcrowding. It is also being done to eliminate so-called racial imbalance, and I think we are kidding ourselves if we think that, with the 10 percent or 8 percent white school population in the District of Columbia, you are ever going to have any even blend across the board, even an 8 percent white blend across the board, without its entailing inordinately high costs. Here is an example of it, $200 per student—a total of $400,000.

COMPARISON OF BUSING COST WITH BUILDING

One of your capital outlay items requested today amounted to what, less than $200,000, wasn't it?

Mr. WOODSON. $199,000. Langdon was $199,000.

Dr. CARROLL. $200,000, sir.

Senator BYRD. Yes, $200,000.

Dr. CARROLL. Yes, sir.

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[1] *Brown* v. *Board of Education, ante,* p. 483.

[2] *Detroit Bank* v. *United States,* 317 U.S. 329; *Currin* v. *Wallace,* 306 U.S. 1, 13–14; *Steward Machine Co.* v. *Davis,* 301 U.S. 548, 585.

[3] *Korematsu* v. *United States,* 323 U.S. 214, 216; *Hirabayashi* v. *United States,* 320 U.S. 81, 100.

[4] *Gibson* v. *Mississippi,* 162 U.S. 565, 591. Cf. *Steele* v. *Louisville & Nashville R. Co.,* 323 U.S. 192, 198–199.

[5] Cf. *Hurd* v. *Hodge,* 334 U.S. 24.

Senator BYRD. For one capital outlay project. In other words, you could pay for two similar capital outlay items with the cost of busing these students for one school year.

Dr. CARROLL. Yes.

Senator BYRD. Extend this over a period of 10 years and you would pay for a considerable number of capital outlay projects, without the inconvenience that is caused these children, taking them all the way across town twice a day, delaying them in reaching their classes, delaying them in getting back home in the evening. I am not attempting to excoriate you, I don't mean to do this. This isn't your fault. It isn't Mr. Woodson's fault. It isn't Mr. Henley's fault.

But I just think it is simply outrageous, and as long as I have anything to do with the judgment that is applied to District of Columbia appropriations for the school system, I am not going to recommend money for busing of students to eliminate racial imbalance. Now if Judge Wright wants to provide the money, he can do it. As far as I am concerned he can pay the cost of busing to eliminate racial imbalance. I have done everything I can do to improve the school system in the District of Columbia. I have championed every dollar that has been requested for feasible programs and projects and necessary personnel for schools in the 7 years that I have been on this subcommittee and I, of course, haven't had my way about all things.

UPGRADING SCHOOLS OBJECTIVE OF COMMITTEE

I have championed some causes in regard to which I lost, and I want to keep on providing the opportunity for a better education. I want to upgrade the schools. I want to provide compensatory education for disadvantaged students. I am all for that. I want to give them preschooling, and I wish we could just find another $100 million somewhere and give it to the schools, if you could feasibly use it in fiscal year 1968. But I am just appalled at this intolerable and inexcusable waste of the taxpayers' money for busing students.

I know you have some overcrowding. Congress has a responsibility to help relieve that overcrowding, and over the years I don't think it has lived up to its full responsibility, and we ought to do something about it as quickly as we can do it. That is my objective in providing additional buildings in neighborhoods where the overcrowding exists.

DIRECTION OF PROJECTED TRANSPORTATION

Now have you been transporting children from west of Rock Creek Park to east of Rock Creek Park?

Mr. WOODSON. No, sir.

Senator BYRD. There has been none of that.

Dr. CARROLL. It is only from east to west.

Mr. HENLEY. And east to east.

Senator BYRD. And east to east.

Mr. HENLEY. Yes.

Dr. CARROLL. I believe about 450 elementary students are being bused from east of Rock Creek Park to west of the park at the present time.

Senator BYRD. I will insert in the record at this point, two editorials from the Washington Evening Star.

The editorials follow:

"[From the Washington (D.C.) Evening Star, Sept. 11, 1967]

"WRIGHT'S REVERSAL

"In explanation of his eleventh-hour turnabout decision the other day to permit some 255 District youngsters to remain this fall in the schools they had already been attending, Judge J. Skelly Wright commented that 'the position of the children . . . looms uppermost in my mind.'

"Where was that concern only a week before, however, when the judge ruled that these children, the vast majority of whom are Negro, had to abandon the schools of their choice and move into entirely new and educational environments?

"School administrators had cautioned that such moves would be unsound educationally. And the individual pupils involved—during their angry, dramatic appearance before the school board last week—told precisely why in reciting instance after instance of the unconscionable hardships and disruptions they faced.

"The logical conclusion is that Judge Wright, as a non-professional, did not have the slightest notion of these effects at the time of the initial ruling. And this, of course, is an ideal illustration of why a federal judge who has no competence as an educator has no business whatever trying to run a school system.

"The school board is to be commended for actively seeking the reversal—especially in view of the vehement objections of members John Sessions and Euphemia Haynes. We trust that a majority of the board will be equally responsive to such situations in the future. Sessions' comments that the board's further interest in this case after the initial ruling was a 'cruel hoax,' and that the board was risking a contempt citation, were irresponsible nonsense.

"One aspect of Judge Wright's statement is a little difficult to understand—his indication that his reversal of last week may be temporary, pending an overall review of school assignment policies next January. For if his reasons for not disrupting the lives of these 255 children are valid today, they will surely be even more valid in mid-term four months hence.

"At this stage of the game, however, we choose to look on the brighter side of the picture, and recall another of the Judge's observations last Thursday: His characterization of the 255 children as 'pawns' in an 'unfortunate episode.'

"However he meant that comment, it states the present dilemma precisely. If the judge is really becoming aware of the danger that the flights of social theory he expounded in the Hobson v. Hansen decision could make innocent 'pawns' of countless other children—in countless other 'unfortunate episodes'—maybe we're getting somewhere."

"[From the Washington (D.C.) Evening Star, Sept. 18, 1967]

"SECOND WRIGHT BONER

"Earlier this month Judge J. Skelly Wright modified his original school decree to permit some 255 District youngsters to continue this fall in schools they had already been attending. This was done after Judge Wright had belatedly become aware that his original ruling would work an unconscionable and senseless hardship in the case of those children, most of whom are Negroes.

"District school officials now are trying to decide what to do about a second unfortunate and probably unforeseen consequence of the Wright ruling.

"Judge Wright, with some splendid rhetorical flourishes, ordered the abandonment of the track system on the ground that it discriminated against 'lower class and Negro students.' It turns out, however, that there were some 5,000 'educable retarded' children, most of them colored, in the 'special academic' or basic track. With the track system judicially banned, some other arrangement for grouping these retarded children must be devised unless they are to become educational casualties of the Wright decree and of its interpretation by school officials.

"As a temporary measure the educable retarded children have been placed in regular classes, where they stand little if any chance of keeping up. An article by William Raspberry in The Washington Post told of the unhappy experience of one mother and child.

"The child, a nine-year-old girl, had been making good progress in the basic track at Tyler Elementary School. 'Now she's in a regular third grade class,' said the mother, 'and she comes home crying, telling me she can't understand the lessons. Her reading isn't as good as it was last year.'

"Well, this and other deplorable byproducts of the Wright decision doubtless will be straightened out in due course. But the essential conclusion remains: A Federal judge is no more qualified to undertake a whipcracking approach to the dictation of educational policy than would a professional educator be qualified to serve on the United States Court of Appeals."

Senator BYRD. Do you have space east of the park?

Dr. CARROLL. Yes, we have found space east of the park and have transported into those spaces, and this is our second year actually in that type of transportation.

Senator BYRD. Let me read from Mr. Henley's letter:

"Public schools plan to rent buses to transport a total of 1,782 children from overcrowded to underpopulated schools. Of this total, approximately 418 elementary school students will be transported from overcrowded schools east of Rock Creek Park to underpopulated schools west of the park. In addition, there are approximately 730 openings in the secondary schools west of the park for which volunteering students in overcrowded schools east of the park can receive free D.C. transit bus tickets if they choose to transfer."

I repeat: "* * * 730 openings west of the park in secondary schools for which volunteering students east of the park can receive free D.C. Transit bus tickets * * *."

The letter also states as follows: "There are also available some 1,300 spaces in secondary schools east of the park for which transfer may be requested. However, the school system does not intend to pay for any transportation costs involved in such transfer."

REASONS FOR FREE TRANSPORTATION

Now why provide free bus tickets to secondary schools west of the park when there are spaces east of the park at no cost to the school system?

Dr. CARROLL. It is my understanding that they were complying with Judge Wright's directive that we should try to have greater integration and allow students to transfer from east to west of the park.

Senator BYRD. Yes.

Dr. CARROLL. And this is the basis for this decision.

Senator BYRD. Yes. While spaces are available east of the park, which would not be at any cost to the District of Columbia school system; is that correct?

Dr. CARROLL. I think that is.

Senator BYRD. In other words, students from secondary schools east of the park that are overcrowded could transfer to schools east of the park which are not overcrowded, and wherein spaces exist, at no cost to the school system, but in order to bring about some kind of racial mix, the court decree is requiring you, or at least you feel you are being required by it, to transport secondary school students from east of the park to west of the park through the provision of bus tickets.

Mr. HENLEY. That is correct.

Senator BYRD. While those same students could go east of the park in spaces available at no cost to the system. It just doesn't make sense.

Dr. CARROLL. I think that is the correct interpretation, sir.

Senator BYRD. It doesn't make sense.

EFFORTS TO RELIEVE OVERCROWDING

Mr. HENLEY. I think in order to be clear, we are paying for the transportation of the children from Hart to Sousa and Evans.

Dr. CARROLL. Evans and Roper I believe.

Mr. HENLEY. That is right.

Dr. CARROLL. These were in the original plan. Evans and Roper are both in the general area where they had some severe over-

crowding at Hart. We did provide that transportation.

Senator BYRD. Yes. Well, the school system was attempting to make a sincere effort to alleviate overcrowded conditions on a temporary basis.

Dr. CARROLL. This was actually in our plans before the Wright decision.

Senator BYRD. Heretofore. Dr. Hansen so indicated, and he stated that when the overcrowding was relieved, the busing would not continue. But here you are being required, as a result of judicial decree, to take actions which are at great cost to the taxpayers, actions which inconvenience the students. Surely the students are inconvenienced by having to be bused across town, when there are spaces next door virtually in their own area which are available to them. As important as money is, and considering its short supply, it would seem to be better spent if we concentrated on providing some more school buildings and additions to school buildings over in the crowded areas. As I say, my criticism is not meant to be delivered to you gentlemen. You are the victims in this comedy of errors.

LOCATION OF RELOCATABLE CLASSROOMS

What about the relocatable classrooms? Are these going to be placed in the overcrowded areas east of the park?

Mr. WOODSON. Mr. Chairman, they are all being placed in the Anacostia area, all 36 of these buildings.

Senator BYRD. Yes. What was the cost per pupil with respect to the relocatable classrooms?

Mr. WOODSON. I think these buildings are costing us roughly about $14,000 apiece. They each hold 30 students, so that——

Dr. CARROLL. Roughly $460 or $470 per pupil. That would include the equipment, I believe, sir.

Senator BYRD. Yes.

Mr. CARROLL. That is assuming the $14,000 figure just given.

Senator BYRD. Yes. It would seem to me this would be the way to relieve overcrowding at least temporarily. These could be used time and time again, year in, year out. You have your initial expenditure which would cost only twice as much as the transportation of the student for a single year. If one wanted to make an honest, sincere, and conscientious effort to relieve overcrowding, it seems to me this would be the approach. Since the ruling in *Bolling* v. *Sharpe*, the school system in the District of Columbia has not discriminated against students on the basis of color and of race, has it, in their assignment to the schools?

Mr. WOODSON. No, sir.

Dr. CARROLL. No.

Senator BYRD. And there is integration all throughout the city, isn't there, in the schools, and where there is resegregation, it is not because of discrimination in assignment of students, is it?

Dr. CARROLL. No. We failed to convince Judge Wright of that, however.

Senator BYRD. Yes, I know you did, and it may be that I shall have failed to convince him that I am going to recommend against the paying of this in the budget which comes before this subcommittee. Time will tell. I am just not going to knowingly recommend the insensible expenditure of the taxpayers' money. I just won't. I can state one Senator's viewpoint on this. I want any such request identified in your 1969 budget, so I will know just where to put the red pencil.

Dr. CARROLL. Yes, sir.

Senator BYRD. This subcommittee has no control, of course, over your Federal money in grants, and so forth, under other legislation, but I did want to call attention to the language in the HEW appropriations committee report, which does deal with funds provided for the Office of Education. You may want to consider it.

CORRECTION OF DIRECTIVE

Now, Mr. Henley, another question along this line. In your letter of August 31, you stated, and I quote, "One directive on August 14, 1967, erroneously indicated that only Negro children would be transported."

You go on to say that "This directive was corrected in a later directive on August 16, 1967." Was it corrected?

Mr. HENLEY. Yes, sir.

The letter follows:

SUPERINTENDENT OF SCHOOLS,
FRANKLIN ADMINISTRATION BUILDING,
Washington, D.C., August 31, 1967.

Hon. ROBERT C. BYRD,
Chairman, Subcommittee on the District of Columbia, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: I am pleased to provide the information you requested in your letter of August 23, 1967.

Enclosed are copies of all orders and directives issued by the School Board and the Administration relative to the transportation of children from overcrowded schools east of Rock Creek Park to under-populated schools west of the Park.

These documents are generally self-explanatory. However, one directive issued on August 14, 1967 erroneously indicated that only Negro children would be transported. This resulted from a misinterpretation of the intent of the court decisions in the case of Hobson v. Hansen. The school administration is maintaining close communications with the Corporation Counsel's Office in these matters but a misunderstanding occurred in this case. The directive was corrected in a later directive on August 16, 1967. A press release also was prepared to facilitate public understanding of this matter.

We have made every attempt to develop plans which meet the requirements of this court decision in good faith, which are consistent with good educational practice, and which are within the capabilities of the school system to implement. It is our hope that we are successful in this effort.

You requested specific details concerning plans for transporting students. The public schools plan to rent buses to transport a total of 1782 children from overcrowded to under-populated schools. Of this total, approximately 418 elementary school students will be transported from overcrowded schools east of Rock Creek Park to under-populated schools west of the Park. In addition, there are approximately 730 openings in the secondary schools west of the Park for which volunteering students in overcrowded schools east of the Park can receive free D.C. Transit bus tickets if they choose to transfer. Thus a total of some 1148 elementary and secondary students living east of the Park may be provided either buses or bus tickets to attend schools west of the Park.

It should be pointed out, however, that this east to west transportation represents only a portion of our total transportation plans for this year. Of the 1782 students being transported by rented bus approximately 970 elementary and 394 secondary students (total—1364) will be bused from schools east of the Park to other schools also east of the Park. There are also available some 1300 spaces in secondary schools east of the Park for which transfer may be requested; however, the school system does not intend to pay for any transportation costs involved in such transfer.

Exhibits I and II, attached, list the numbers of students being transported by schools and also indicate the schools to which they are being sent. Exhibit I shows movement from east of the Park to the west of the Park, while Exhibit II shows movement from east of the Park to other schools also east of the Park.

The total annual cost of all transportation is estimated to be about $378,338. The following table itemizes these costs:

Contracts for 35 buses	$195,058
40 bus attendants (to provide supervision on the buses)	157,000
Free D.C. Transit bus tickets for 730 secondary students	26,280
Total	378,338

A word of explanation may help put these statistics into perspective. All students being transported by bus are coming from severely overcrowded schools in the Anacostia area as Exhibits I and II show. A total of 418 of the 1782, or 23.5% of the total being transported by rented bus, are going to schools west of Rock Creek Park. This portion of the transportation is estimated to cost about $82,734. Adding to this figure the $26,280 for free bus tickets for secondary school students gives an estimated total cost for transportation west of the Park of $109,014, or 29% of the total transportation costs. Some additional costs may occur to extend the free lunch program to the schools west of the Park which have not had such a program previously. This cost is not expected to be great.

It should be noted that all enrollment figures and costs are necessarily estimates because school has not yet opened. Because of uncertainty as to what true enrollments will be, the actual resulting figures and costs may vary somewhat from those presented here. Further, all plans are subject to the court's approval and therfore may be altered.

It should also be observed that the District of Columbia Schools transported approximately 700 elementary school children last year in order to relieve overcrowding. Some of these students were sent to schools west of Rock Creek Park. The school administration had planned to continue to transport elementary students and to transport some 400 students from Hart Junior High School as well. All plans for transportation and all school capacities in Exhibit I and II take into account the availability of the 36 relocatable classrooms which your committee authorized this spring.

Bolling Field will provide its own transportation for students coming from that Base as they did last year; thus, their students are not included among the students for whom we are paying transportation.

All the costs of transportation will be paid initially from Impact Aid funds. The Board of Education will consider the possibility of alternative sources of funding for this expense at a meeting in the near future since the cause of this expense is necessitated primarily by lack of school facilities, and to a lesser extent, by court order.

I hope we have provided all the information you require. If you have need for any additional information, I would be pleased to provide it.

Sincerely yours,

BENJAMIN J. HENLEY,
Acting Superintendent of Schools.

Senator BYRD. What about the transfer of pupils to undercapacity schools on the west side of Rock Creek Park? Shall it be confined to Negro students from overcapacity schools?

Mr. HENLEY. No. Any child asking for a transfer from an overcapacity school which is Elementary and Secondary Education Act, title I designated, which would mean that it is the lowest economic area, would have his transfer granted in terms of capacities of the schools.

Senator BYRD. Well, you had referred, to your news release of August 14, had you not?

Mr. HENLEY. That is right, the first one that we put out.

Senator BYRD. Now in your press release of August 16, you stated—I assume you feel that you struck out that earlier provision which confined the transfers to Negro students.

Mr. HENLEY. Yes.

Senator BYRD. Did you?

Mr. HENLEY. That is right.

PLACEMENT IN UNDERCAPACITY SCHOOLS

Senator BYRD. In your press release of August 16 you state that:

"Placement in undercapacity schools will be based on the following criteria:

"1. Priority will be given to transfers which increase racial integration."

Suppose a white student wants to transfer from an overcrowded school to an undercrowded school that is white, or mainly white. Do you discriminate against that white student?

Mr. HENLEY. No, we do not.

Senator BYRD. He would be permitted to transfer.

Mr. HENLEY. Yes; I am sure I couldn't name the children, but I am sure that we have children from Ballou who are white going west of the park.

Senator BYRD. And they are going to schools, undercapacity schools, that are predominantly white?

Mr. HENLEY. If they are going to Wilson. Western, I believe, is about 50/50.

Dr. CARROLL. Yes; close to 50 percent.

Mr. HENLEY. That revision was made on the recommendation of the Corporation Counsel. We had been in error.

LONG-RANGE PUPIL ASSIGNMENT PLAN

Senator BYRD. In your superintendent's circular No. 9, dated August 8, 1967, you set forth your long-range pupil assignment plan, and you indicate as one of the steps to be taken in the development of a long-range plan, a study of school boundaries and enrollments in order to determine what immediate changes can be made to increase economic, social, and racial integration through busing and the establishment of new zones to replace abandoned optional zones.

You go on, on the following page, to include as a possible area requiring study and analysis, in order to formulate recommendations, this item:

"Recruitment of volunteer families west of the park who are willing to have their children bused east to schools where their presence will provide integration to both groups."

Now we are going to send students from west to east.

Mr. HENLEY. Sir, I am not saying that we will do that.

Senator BYRD. No, I shouldn't say it either, but this was at least going to be considered.

Mr. HENLEY. Yes.

Senator BYRD. Well, you identify this busing item, if it is in your budget next year. It just would make even less sense to bus students east to west and then bus students west to east.

Mr. HENLEY. We are under orders to consider a long-range pupil assignment plan.

Senator BYRD. Yes.

Mr. HENLEY. I think that as we considered this, we put into the plan at that point all the possibilities that might be considered.

Senator BYRD. Yes.

Mr. HENLEY. And what will come up I don't know.

Senator BYRD. Well, you are between a rock and a hard place.

Mr. HENLEY. Yes.

Dr. CARROLL. Yes, sir.

Senator BYRD. I don't know what you will do to satisfy the decree, but you might keep this hard place in mind.

Mr. HENLEY. We can't very well forget it.

Dr. CARROLL. We will describe our budget accurately, sir.

REQUEST FOR FURTHER INFORMATION ON TRANSPORTATION

Senator BYRD. Provide for the Subcommittee an up-to-date estimate of the cost of transportation.

Mr. HENLEY. Yes, sir.

Senator BYRD. Also supply the Subcommittee with all circulars, directives, et cetera in implementing the decree, if it is upheld by the Court of Appeals. Keep us supplied with all letters, circulars, directives, future plans, et cetera.

* * * * *

FORCED PUPIL INTEGRATION

Senator BYRD. It is not my purpose to resegregate the schools. I don't want to be misunderstood. And it is not my purpose to defend forced segregation in schools, not at all. I have nothing against integration as long as it is up to the free will of the students. If Negro students freely wish to go to white schools, and vice versa, that is perfectly all right with me. I have no objection to that and couldn't have. But, when it comes to the forced mixing of students against their wills, or against the wills of their parents, many of whom are Negro who are against this, many of whom are white, and both of whom, at least in theory, pay taxes, the white child's parents pay taxes just as does the Negro child's, then it becomes, I think, discrimination in reverse. And forced integration by the State, or by the Federal Government, is just as bad as is forced segregation by government. So it is that which I oppose, forced segregation and forced race mixing.

Just as Congress has no special competency which would qualify it to run the schools administratively, I feel constrained to say that the courts don't have any greater competency. I think these matters should be left to the school officials. And all the decrees in the world can't be enforced if you don't have the money.

Dr. CARROLL. Yes, sir.

Senator BYRD. What is going to be the outcome of this impasse if you should request D.C. funds for busing? You have the judiciary saying that you have got to do thus and so, and I suppose implicit in that decree is that you have got to bus, and you are going to have the legislative branch, at least as far as I can bring it about on this subcommittee, and I may fail, but I will refuse to go along with that insofar as providing D.C. funds for busing is concerned. Let Judge Wright take notice. Again I say I have no control over Federal moneys such as impact aid. I can only speak to your city budget which comes before this subcommittee.

TEACHER INTEGRATION

Also in your plan for substantial teacher integration, you state, Mr. Henley, in your news release of August 14 as follows:

"We are assigning new teachers on a color conscious basis. We are transferring teachers needed for the additional children transferred west of Rock Creek Park on a color conscious basis."

How can you do this under the Constitution? The Constitution is colorblind. How can you assign teachers on a color-conscious basis?

Mr. HENLEY. We had not, as you probably know, been keeping records of the races of our teachers. However, we were ordered to make assignments on a color-conscious basis. The fact is that we didn't know until the 5th of September when our teachers showed up who they were, so we had to make assignments, adjustments in assignments on the basis of teachers whom we had and whom we had assigned prior to that time. It is a dilemma in which we find ourselves.

Senator BYRD. I know.

Mr. HENLEY. We had never kept, well, for 10 years or more we haven't kept such records. We didn't know until after interviews earlier in the summer whether or not a teacher was white or colored. We couldn't know the race until the first day when teachers reported.

ADJUSTMENTS TOWARD COMPLIANCE

We have made some adjustments since that time, in order to comply. I am not sure that what we have done will be acceptable to the judge in terms of compliance and in terms of the report that we have made to him, but this is an awfully delicate thing.

Senator BYRD. I know it is. Well, there is room for a difference of opinion here. I would imagine that this is going to make your recruitment problem somewhat more difficult, and you may end up with fewer white teachers to transport to the west side of Rock Creek Park.

Mr. HENLEY. It could well be.

Senator BYRD. And you may end up with fewer white students than the present 8 percent of the population that you have in your elementary schools. So the judge may be cutting off his nose to spite his face. He may be thwarting his objectives.

I think this decree—and I don't want to speak in derogation of a member of the court, and I don't know Judge Wright personally, and what I say is not to reflect on him as an individual—I just think his decree is unwise, unworkable, unsound, and wasteful of time, energy, and money. I believe that the decree will just hasten the exodus of white students from the District of Columbia.

I wouldn't like for my child to be transported all the way across town, running the risk of accidents during the winter, and getting to class an hour later than he would otherwise have to attend, coming home an hour later, being on the bus for an hour and a half each way. I understand some of these children are on buses for an hour and a half, and I wouldn't like this. I assume that other parents, both colored and white generally speaking, have about the same feelings I have about our children.

NEGRO PARENT INTERESTED IN EDUCATION

I believe the average Negro parent is interested rather in the education of his child, than in having that child used as a guinea pig in some wild and senseless experiment. All of what I am saying here is of no moment as to the judge's decree. It is not going to have any impact, of course, on his decision, but it does revolve around this item of appropriation for busing. I am not complaining to you gentlemen, but we may have to meet this issue somewhere down the road.

Whatever integration results in the natural course of things and so forth and so on is one thing, but to spend the taxpayers' money to force something which can't really be forced, in the final analysis doesn't make sense. People just aren't going to be led around by the nose as a result of any decree. I wouldn't stand for it, if I had a child in the District schools—wouldn't stand for it a minute. The sooner I could get away from it, that would be just how soon I would leave, if I were able to do it. Some people perhaps are not able to do it. I have talked with a lot of colored people, I would imagine that the opinion of most of them is that as long as their child isn't mandatorily relegated to a segregated school, as long as the child has the opportunity to go to a white school, as long as there are some white students in the school with it, which is proof that it is not a segregated school, and the colored child has an opportunity to be exposed to them, as long as there is freedom of choice, this is satisfactory and meets the constitutional requirements.

That colored parent is interested in the education of his child, because that is what is going to count most when it gets out into the school of hard knocks. It has to compete with other people. How well it can read and write and solve problems in mathematics is what will count most in the labor and professional market, and not so much that it has rubbed elbows or played football with a half dozen white students in a school which is 50/50 or 90/10 as to racial mix.

SPECIAL PROJECTS INVOLVING BOTH RACES

There is one other item I think I wanted to ask about, Mr. Henley. By the way, why couldn't you have, say 1 day a week, in which students of all races throughout the city could meet at a certain place, say for 2 hours a week? Why couldn't this be done? This would bring about the cross exposure of the

races and help children to learn to work together and to know one another, instead of all this ferment, about busing to eliminate racial imbalance? Is any consideration being given to this type of thing?

Mr. WOODSON. Senator, my office proposed, and I think it is under study now, that we build a school for the teaching of those subjects which are taken by only a few people in some schools, and offered not at all in certain other schools. I am thinking about the fourth year of language or perhaps some of the rarer languages, Russian, Chinese, Asian, and Indian languages, the advanced science course, and some drama courses, journalism courses, where the enrollment in almost any school is quite low, and in some schools, because the demand is so low, it is not offered at all.

It was my feeling that we might build such a school, and that the children, we would teach all of these relatively rare courses in the curriculum at a single spot. This would provide the course for anybody who wanted it, and this is not the case today.

Dr. CARROLL. Yes, sir.

Mr. WOODSON. And as a byproduct we would be getting a cultural, social, and economic mix.

Senator BYRD. In the meantime, the District should expedite the building of new and additional structures in the slum areas where there is overcrowding. You would have in the normal course of things some integration in those areas and then you would have 1 day a week on which the students could be brought to a central location and could be taught subjects such as you have outlined.

Mr. CARROLL. The Columbia Teacher's College report makes recommendations along this general line of specialty schools too.

BUSING COST'S RELATION TO EQUIPMENT COST

Senator BYRD. How far would $200 a year go in equipping facilities for preschool aid?

Dr. CARROLL. Your pre-school-pupil costs, particularly if the program is on a half-day basis, of course, is somewhat smaller than our regular elementary, which is running around $500, so I suppose that—this is very much off the top of my head. I am sure that we could put a child in preschool for almost the cost of busing, but I am not sure of that. I would have to check it.

Senator BYRD. It would seem to me this would be a much better expenditure of money. The child goes across town for 5 years and $1,000 has been spent on that child for bus transportation and he has nothing to show for it but some torn-up bus tickets, and probably some torn-up bus seats, and the same amount of money could be used for preschooling a lot of children, which would be worth something to them throughout their lifetimes.

My remarks this morning do not go to that part of the decree which dealt with the track system. I have always expressed support of the track system as it was explained by Dr. Hansen in his appearances before the subcommittee, and while I am not an educator and do not profess to be one, I have been persuaded to believe that some system of ability grouping is advisable, but that part of the decree was not the object of my comments. This is something beyond the competency of this subcommittee or this chairman.

My remarks simply went to that portion of the decree which implicitly or explicitly required busing of students in order to eliminate racial imbalance, or promote racial balance, in the public schools, the implementation of which would be at an unnecessary and unwarranted cost, in my judgment, to the taxpayers, and a great inconvenience and some hazard to the children.

DIFFICULTIES AT LINCOLN JUNIOR HIGH

In the Washington Post of October 27, 1967, there appeared an editorial entitled "Anarchy at Lincoln." You are familiar with the editorial, I am sure, Mr. Henley. I am going to insert it in the record, together with another story deploring school rowdyism.

The article follow:

"[From the Washington Post, Oct. 27, 1967]

"ANARCHY AT LINCOLN

"An extremely ugly situation has been allowed to develop at the new Abraham Lincoln Junior High School. There have been numerous fights between students, attacks upon teachers, wanton vandalism and other forms of disorder. Recently, this situation was dramatized by the complaints of parents from three East European embassies in the school's neighborhood that their children had been subjected to 'almost daily brutal treatment' by the Negro majority and by a formal request from the Department of State that these children be allowed to transfer to another school.

"We have the warmest sympathy for the victimized children and for their families. Their request for transfer is readily understandable. But so is the refusal of that request by Acting School Superintendent Benjamin Henley. Transfer would breach the principle that children should attend schools in the neighborhoods where they live; and it would also breach the recent ruling by United States Circuit Judge J. Skelly Wright forbidding exceptions to that principle. 'I couldn't legally approve these transfers,' Superintendent Henley said with most creditable candor, 'and I might add I personally think it better not to have any exceptions.'

"The remedy for racial violence or threats of violence, in school or out of school, is not surrender or evasion. It lies in enforcement of the law and maintenance of order. The situation at the Lincoln School is intolerable; and it emphatically does not have to be tolerated. It arises out of inadequate preparation for the school's opening and unsatisfactory administration after it opened. There is need for the most stringent discipline at the school until the students there can be taught reasonable behavior. It would be absurd to say that order cannot be established at Lincoln—or that it can be achieved only by returning to a system of racial segregation.

"The District owes apologies to the diplomats whose children have suffered mistreatment. It owes protection, at whatever expense and effort may be necessary, to all children at its public schools. Mr. Henley has indicated a determination to restore order at Lincoln. He should have all the help he needs from District law enforcement authorities. Order is the indispensable condition of education."

"[From the Washington Daily News, Oct. 25, 1967]

"CRISIS WITHIN A CRISIS HERE—ENVOYS HIT SCHOOL ROWDYISM

"One of the problems of the much-maligned District School system—fighting—has taken on an international flavor.

"The Bulgarian, Polish and Yugoslavian Embassies have complained to the State Department that some of their employes' youngsters have been beaten up going to and from Lincoln Junior High—on a fairly regular basis.

"But school officials have denied the parents' request to have their children transferred because the Wright school decision prohibits such changes.

"Harold Pace, State Department assistant chief of protocol, said yesterday the first complaints were received about a month ago and the last incident allegedly occurred Friday.

"'We don't know why they are getting picked on,' he said, 'but their parents want them transferred. Evidently there are fights going on among Negro pupils, so we have no reason to believe the foreign pupils are being picked on because they are white.'

"Dropouts

"Mr. Pace said there are 12 Polish, Bulgarian and Yugoslavian pupils—all in their first (and possibly their last) year of school here—going to Lincoln. Some of them have already been pulled out of school by their parents, he said.

"Acting School Supt. Benjamin J. Henley said he had received a letter from the State Department saying 'the children had been struck on the way home from school.'

"No go

"The letter, he said, asked that the children be transferred.

"'We said no to that,' he said, on the advice of Corporation Counsel, Charles T. Duncan, who felt any transfers could only be made in emergencies, in case of overcrowding or thru pre-arranged busing plans which are already in effect."

Senator BYRD. I would like for you to address yourself to the editorial and indicate what steps have been taken to prevent further similar situations.

PROBLEMS OF ORGANIZING NEW SCHOOL

Mr. HENLEY. We had difficulties in organizing the Lincoln School. It is a brand new school. The administration of the school is new. The teachers were new. The students coming to the school were all new. This in itself is a problem. We were bringing together three groups of students, Spanish speaking, Negroes and white, which complicated the problem. Then early in the school year the principal of the school became ill and left, and so we didn't have the leadership of the principal there.

Now then, there were incidents on the way to school and from school. There were incidents within the school. You asked what have we done about it.

We have added an additional assistant principal to the school. We have brought in, we have consulted with the recreation department to bring some roving leaders in that area. We have had the Police Department to patrol more frequently in the area. We have rearranged the schedules in the school. We have transferred out about 300 children because the school was overcrowded at the beginning of the school year. We have listened to the people in CHANGE, this is a neighborhood group which is interested in the school, and we have just transferred one additional person as an assistant principal, and we are considering an interim principalship. This would be maybe a 90-day principalship.

The behavior at the school, the decorum at the school, the reorganization of the programs at the school have resulted in a marked change at the school. I consider it in a rather good state, but there needs to be improvement yet. I think what you see in the article there could rightly have been said 3 weeks before, but it was coming up in the newspapers at that time. I have been up there myself on one or two occasions, and the assistant superintendent is on top of it. One of his aides goes to the school everyday there.

It was a difficult thing and it wasn't good when it started. It is much better now.

TIGHTENING DISCIPLINE IN SCHOOL

Senator BYRD. What is being done to tighten up the discipline in the school, Mr. Henley?

Mr. HENLEY. The teachers——

Senator BYRD. Not only in this school but also in schools throughout the District.

Mr. HENLEY. I don't know if I can give you really what you are looking for. I think the children in our urban schools reflect the temper of the times. I think that there is some unrest in our schools, and yet I don't believe that the problems that we have in the schools are as serious as sometimes the newspapers indicate.

Senator BYRD. Oh, I think they are far more serious than the newspapers ever reveal. I don't think half has ever been told. Do you remember the old song?

Mr. HENLEY. Yes, I do.

Senator BYRD. "The Half Has Never Yet Been Told"? I don't think the half has ever been told.

Mr. HENLEY. I think you——

SERIOUSNESS OF DISCIPLINE PROBLEM

Senator BYRD. I have been. I know a lot about this situation that you don't think I know. I am not just speaking off the top of my head in this. I get lots of letters from teachers and parents whose children are in schools, and a lot of these are Negro parents and Negro teachers. The public doesn't know the half concerning the disciplinary problems. It is not just in your schools but in other urban communities also. And you say it is the temper of the times. But I think a man has to shape the temper of the times. He just can't glide down the stream of history looking backward over his shoulder. He has got to shape the trend. I certainly hope that something can be done to tighten up on the discipline in the schools. I think it is important to the education of the children. It is certainly important to the attitudes that they have later, and it is important to the mundane matters of recruitment of teachers.

The October 18, 1967, Star carried a story with this heading, "The Week That Was: Miller Junior High Put to Test."

I read an excerpt therefrom:

"On Tuesday, a 17-year-old Negro dropout allegedly entered the bulding and manhandled a female teacher in front of her class on the third floor.

"A complaint was made to the principal. The white teacher also went over the head of Savoid, a Negro, and complained directly to officials at the Franklin Administration Building."

The story talks about the fire alarm being set off 27 times, stopping classes each time "as students dutifully filed from the room. Discipline all but disappeared."

I will put this item in the record.

The article follows:

["From the Evening Star, Oct. 18, 1967]

"THE WEEK THAT WAS: MILLER JUNIOR HIGH PUT TO TEST

"(By Ernest Holsendolph)

"The District's Kelly Miller Junior High School is a mere 18 years old, a youngster among the city's ancient buildings. But the years have been hard for the Far Northeast School.

"Once severe overcrowding was its hallmark, with its capacity of 1,000 stretched to more than 1,800 as the city threw up one public housing project after another. That problem is waning, but others linger on.

"Broken windows and a vandalized interior—plumbing in one part of the building yesterday was still stopped by a beer can—tell of only one level of the school's present problems.

"Last week, when someone threw a rock through a piece of plastic patching in a window, Miller got one of the District's first windows with a hole in a hole.

"That's the way it has been this semester at Miller, which is at 49th and Brook Streets NE.

"Too many students showed up the first day of school. There were enough rooms this time, but not enough teachers. And there weren't nearly enough books.

"And gone was Mrs. Muriel Alexander, a disciplinarian whose tight rein on the school before her June retirement made her well-known throughout the system.

" 'It was strictly one strike and you're out,' was the way one Miller teacher described 'the old days.'

"Mrs. Alexander's replacement is Othello Savoid, an amiable man who wanted very much to be liked, especially by the students, during the first year as a school principal.

"Free wheeling

"Teachers accounts revealed the following:

"The students sensed the change immediately, and reacted like so many chickens finally free of the coop.

"Students and outsiders wandered the corridors. Students dropped in on classes casually, up to half-an-hour late. Classes were noisy and frequently interrupted. During one free-wheeling day, a student threw a golf ball down a corridor, striking a female teacher in the back.

"Teachers became increasingly bitter about the lack of discipline and lodged complaints with the Washington Teachers Union, their exclusive bargaining agent during present contract negotiations.

"Last week was the most hectic period in the five weeks of school.

"Savoid told a reporter last week the school's fire alarm system had become an increasingly popular toy to the students. Before last week, the alarm had been set off on six occasions.

"The alarm was sounded three times last Monday morning, and that afternoon, during a real fire drill, the students responded poorly, believing the bell signified just another false alarm.

"Teacher manhandled

"On Tuesday, a 17-year-old Negro dropout allegedly entered the building and manhandled a female teacher in front of her class on the third floor.

"A complaint was made to the principal. The white teacher also went over the head of Savoid, a Negro, and complained directly to officials at the Franklin Administration Building. The next morning the suspect was booked and sent to Children's Receiving Home to await a hearing.

"Tuesday afternoon Savoid told the students to shape up and keep their hands off the fire alarm and to respect the rules of the school. At the same all-school assembly, Savoid reportedly told the faculty not to bar pupils from class for coming late. Teachers were very resentful of this and reported it to William H. Simons, president of the union.

"Wednesday was truly fire alarm day. Police report the alarm was set off 27 times, stopping classes each time as students dutifully filed from the rooms. Discipline all but disappeared.

"Acting Superintendent Benjamin J. Henley and John D. Koontz, assistant superintendent in charge of secondary schools, visited the school that afternoon to calm the teachers, some of whom considered resigning.

"Teachers voiced their complaints about lack of discipline that night to parents and residents at a hastily called community meeting. Mrs. Euphemia L. Haynes, a member of the District Board of Education, also attended.

"Mrs. Haynes, for 30 years a teacher at D.C. Teachers College, said she listened to the teachers' complaints, but she was critical of some speakers who 'wanted the right to expel disruptive children.'

" 'From the way they talked, I could sense some of them lacked experience,' Mrs. Haynes said. 'We must educate all children, including those who sometimes are disruptive.'

"Thursday saw the week's second all-school assembly.

"Savoid said he again called for discipline among the students. A succession of teachers spoke, reminding the students of rules of good behavior in various parts of the building, including the hallways and cafeteria. Two police officers from the 14th Precinct and the Youth Aid Division also addressed the assembly at Savoid's request.

"The officers made a show of explaining to the students that fire alarm switches would be dusted with a substance which would leave tell-tale traces on any culprits who caused another untimely fire drill.

" 'I regret that this has gotten such publicity,' Savoid told a reporter. 'I have always believed that school problems could be settled within the school.'

" 'News media seem to use every chance they get to ruin the names of schools in our city,' said Savoid, who taught 10 years at Miller and then left for a stint at Eastern High. 'For the most part we have a normal junior high here—including no overabundance of angels.'

"Koontz said yesterday:

" 'I accept responsibility for the faulty projection of student enrollment at Miller—we make no excuses for that.'

"School officials announced to the student body Oct. 6 that space is available at Gordon Junior High for some Miller students. So far 65 students have transferred.

" 'Those students would have moved even if we did not have the shortage of books and materials here,' Savoid said. 'They are moving mainly because of fickleness and curiosity—many of them will be back.'

"Despite the fact that the school has been short of English, social studies and math books since the first day, school officials moved only last week to make up the shortage by borrowing from other schools.

" 'Miller is a good school,' said Clarence Thompson, a math teacher at the school for 10 years. 'I've seen many young men and women go on from here to win scholarships and do a good job in college.

" 'Did you know we have one of the best junior high school papers in the country?' he asked a reporter.

" 'Yes, we're a good school. Our teachers are dedicated, the school is in good hands, and education will continue.'

" 'I must admit the teachers are completely right,' Koontz said. 'After all, the only thing they ask is that they be allowed to teach—that's what we all want.' "

Senator BYRD. How can students be educated in an atmosphere of unrest and where there is inadequate discipline?

Mr. HENLEY. They can't be.

Senator BYRD. They can't be, can they?

Mr. HENLEY. No, sir.

Senator BYRD. All right. Well, thank you very much, gentlemen.

READER'S DIGEST HAILS GAO AS TAXPAYER'S FRIEND

Mr. PROXMIRE. Mr. President, the General Accounting Office does a superlative watchdog job for Congress and for every American taxpayer. Unfortunately, this difficult, complicated work of investigating the vast Federal Government has been largely unheralded.

Recently, the Reader's Digest published an excellent article entitled "GAO: The Taxpayer's Best Friend," written by Alfred Steinberg. The article concisely spells out some of the achievements of the good right hand of Congress.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GAO: THE TAXPAYER'S BEST FRIEND

(By Alfred Steinberg)

In 1962, a handful of auditors from the U.S. General Accounting Office turned up in Okinawa to look over the 3d Marine Division. Although none of the GAO men claimed military qualifications, they were experts nonetheless. They examined equipment and records with painstaking thoroughness, and checked their findings against a list of essentials the division would need if called into action. The result was a blistering report to

Congress. Typical of the findings was that most of the division's tanks needed repairs and that, until repaired, 38 percent were incapable of performing a combat mission.

But GAO rarely stops at uncovering deficiencies. In this case, it suggested specific remedies, including changing the officers who had allowed the deterioration. The Marine Corps acted promptly, and long before the 3rd Division went into action in Vietnam, it was combat-ready.

This is no isolated incident. GAO is charged with promoting efficiency, effectiveness and economy in government operations. So its auditors probe into all corners of federal spending—and find waste and mismanagement aplenty.

A few years ago, the Agency for International Development (AID) took bows for having prevented a famine in Egypt by rushing in 186,000 metric tons of corn. Had AID checked, said GAO, it would have discovered that Egypt was actually enjoying a bumper corn crop that year and was selling a good part of the AID corn through commercial channels!

In a review, for a Senate subcommittee, of records connected with government-financed nursing homes in Ohio, GAO found overcrowding, poor care and inadequate diet the general rule for all public-welfare patients. GAO noted that the homes receive a fixed payment for each such patient, and thus "the operator has no financial incentive to improve the level of care, but does have an incentive to keep costs as low as possible." A grand-jury investiagtion is now under way in Cleveland.

In earlier years, after its founding in 1921 as Congress' watchdog over federal spending, GAO was forced to limit its work to "green visor" duties. This meant, primarily, checking millions of vouchers from government officials to be sure the addition was correct, and collecting any overpayments. Investigation was sharply limited. But, after 1940, GAO began to wage ceaseless war on fraud and waste through the use of post audits—that is, audits made after federal tax funds have been spent. Today the agency has extended its horizons still further by undertaking the evaluation of government programs in process, and suggesting ways to improve them.

In all, last year, GAO conducted 3000 audits of U.S. government agencies and programs—here and in 43 other nations. These included surveys of local and state governments, universities and other recipients of federal tax funds, as well as government contractors, such as Ford, General Electric, and International Telephone and Telegraph. (The auditors have legal access to records of executive agencies, and to the pertinent records of companies operating under negotiated government contracts.)

GAO gets compliance with its dicta through its close working relationship with the appropriations committees of Congress, which are quick to call agency heads on the matter of GAO recommendations. Additional help comes from the Bureau of the Budget, which orders agencies to implement GAO recommendations within 60 days or give reasons for not doing so.

It is physically impossible to check every activity of every government agency each year—around the world there are an estimated 15,000 U.S.-government installations, manned by 2,600,000 civilian employes, and fewer than 2500 GAO investigators to keep tab on them. Therefore, Comptroller General Elmer B. Staats is selective about the particular jobs that his men take on. His only required annual audits are examinations of the financial management of 20 or so government corporations, such as the Tennessee Valley Authority and the St. Lawrence Seaway Development Corporation. Other targets for microscopic GAO scrutiny develop out of recommendations from both inside and outside the agency. (No believer in "raids," Staats alerts an agency head to a forthcoming GAO visit, but drops no hints as to the activities to be investigated.)

One recommendation from several sources led to discovery of the extent to which U.S. agencies were failing to use available foreign currencies to ease our balance-of-payments problem. In Poland, GAO investigators found that the State Department was paying $33,400 a year for space at the Poznan International Fair, instead of using Polish zlotys that had piled up in U.S. government accounts there. In Brazil, $3,500,000 had been lost when our embassy there failed, for more than a year, to provide a currency-exchange service for U.S. employes, forcing them to buy cruzeiros from Brazilian exchange houses, rather than from the U.S. Treasury. Nearly *half a billion* dollars' worth of unused, U.S.-owned rupees was similarly being ignored in India. All these situations are being corrected.

Congress frequently orders special GAO audits. There was a request from the House Committee on Government Operations to find out just what was being done to collect criminal fines and civil judgments levied by federal judges. GAO auditors invaded the offices of U.S. Attorneys, found that $255 million in fines and judgments was outstanding in September 1966, but that only the palest effort was being made to collect the money. Several cases had been delinquent for more than three years. Last time, GAO recommended that the Attorney General centralize collection activities, keep improved monthly reports.

A tip to GAO from a State Department employe in 1964 revealed that State had backdated nearly 300 expenditures (totaling $513,000) to the previous fiscal year, to use up leftover money which otherwise would have had to be returned to the Treasury. On GAO investigation, the Department stopped the practice. Another tip, from a small typewriter-repair company, indicated that business machines could be serviced for far less than the government was paying to large manufacturers under national repair-and-maintenance contracts. A GAO survey supported the claim, showing a potential annual saving of more than a million dollars, and contracts are now made with local repair firms.

Individuals who are not satisfied with settlement of legitimate claims against government agencies can turn to GAO for a separate ruling. In 1966, the GAO disposed of 8274 such claims (ranging from government-contract matters to retirement pay of military personnel), and ordered the Treasury to pay $52,596,937 to individuals and firms.

Because of its surveillance, both broad and detailed, of government activity, GAO sometimes spots needless duplication. It found, for example, that the Federal Aviation Agency had undertaken a $5-million research study on the aging of pilots, whereas a $4,700,000 Public Health Service project on aging was already underway. FAA agreed to drop its study, with a resulting saving of most of the millions involved.

As a rule, Comptroller General Staats deploys his men where the big dollar is being spent. Thus, almost 50 percent of his accounting staff is assigned to the Department of Defense, which is spending $72 billion of this year's $135-billion federal budget. The hunting is excellent. To cite just a few recent cases:

In checking a transfer of $65-million worth of hand tools and paint from Defense to the General Services Administration, GAO auditors found an additional $4-million worth of material on the warehouse shelves that had never been entered in the books. During the time this stock was "lost," GSA had bought $1.1-million worth of paint and tools identical to some of the unrecorded supplies.

GAO has figured that by consolidating their 3000 separate recruiting stations, the four armed services could save some $21 million a year, and at the same time afford better-located, more attractive quarters. The proposal is being tested in selected areas.

Spot checks of defense contracts totaling $600 million revealed that in only 20 instances were the contractors' cost figures (required under the "Truth in Negotiations Act") actually in the department's files. Probing, GAO found that one company producing bombs had overstated its costs by $957,000. The Army agreed to the company's proposal to refund $450,000; GAO could do no more, since the settlement had been reached through negotiation.

Predictably, GAO is currently giving considerable attention to Vietnam—checking, for example, on deliveries of food, medicine and supplies earmarked for the people under the commercial-import program. GAO agents are studying the port of Saigon, to find ways to break the congestion caused by ships and barges awaiting discharge of cargo, sometimes for months. There are no easy solutions here, but GAO recommendations for faster loading and unloading of trucks at the port and at inland depots have helped speed materiel to consignees.

GAO's biggest job in Vietnam has been the survey of our $1.3-billion building program there. Construction of airfields, troop barracks and other military facilities, auditors found, has in large part been turned over to a combine of four American firms operating under a cost-plus contract. With little incentive to watch costs, the combine was found, in some instances, to be buying by name brands instead of by general requirements, buying some supplies through Singapore brokers at prices reported to be twice those charged by local suppliers, dumping imported goods on the ground indiscriminately to rot or deteriorate or be hauled off by thieves. Fortunately, GAO arrived at a fairly early stage of the building program. Since then, the Defense Department has taken steps to "eliminate imperfections" in the construction operation.

Staats admits ruefully that his agency's job is frequently made more difficult because many officials and private firms dealing with the government tend to look upon its auditors as "the enemy." Nevertheless, GAO does an impressive job in its relentless crusade to make government effective and economical.

THE VISTA VOLUNTEERS IN OKLAHOMA

Mr. HARRIS. Mr. President, VISTA volunteers are doing excellent work throughout the State of Oklahoma. Typical of the creativity and dedication which these young people bring to their task is the work being performed by Martha Donez, who is serving with the Choctaw Indians in a preschool program at Idabel, Okla.

Her hometown newspaper, the Hanford, Calif., Sentinel, has captured most vividly the story of her work in a brief article entitled "County VISTA Volunteer Runs Indian School." I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COUNTY VISTA VOLUNTEER RUNS INDIAN SCHOOL

A young Lemoore girl got practice in mixing cultures during her years on the Texas-Mexico border. Now as a VISTA volunteer with the Choctaw Indians, she's proving that the experience has universal application.

Since February, 19-year-old Spanish-

speaking Martha Donez has been running a pre-school for Indian children in Idabel, Okla. She has also, quite naturally, become a part of the small farming community near the Texas-Arkansas border.

"She's got instant rapport," says Don Wilkerson, a supervisor and a Cree Indian. "She's like one of us." Miss Donez, who speaks English with a slight Mexican accent, agrees. "Because of my dark skin they thought I was an Indian and spoke to me in Choctaw. It was hard to convince them I didn't understand a word."

With the exception of the language barrier, Miss Donez considers herself well-qualified to understand the Indian's situation. One of 10 children of a Mexican laborer, she has experienced most of the problems of poverty first-hand. Unable to support all their children, her parents sent her to live in southern Texas with her grandmother.

After graduation from high school there, she returned to live with her mother in Lemoore where she met Mrs. Emma Smyrl, a VISTA in her 60's now serving for her third year.

For several months she accompanied Mrs. Smyrl on her rounds among the migrant workers of Kings County. She saw that the poverty she had experienced was widespread and decided to do something about it. "I knew just what they were going through," she said. "That's why I joined VISTA."

When Miss Donez finished her six weeks training session, she was sent to Idabel, a town of 6,000 where the whites outnumber the Indians three to one and where there is very little communication between the two races.

With a youthful diplomacy born of border living, Miss Donez is attempting to bring about better understanding of the Indian's problems in a white man's world.

When she and another VISTA arrived last winter, they could find nowhere to stay. They moved into the kitchen of the Choctaw Presbyterian Church and slept in sleeping bags until a resident donated a couch. Using the oven for a heater and the kitchen sink for a bath tub, they soon adapted to their public quarters. "There was no door," she remembers. "Luckily for us the church was rarely used."

But not lucky for the people they served. Although the Indians had wanted the church built three years ago, it did not seem to meet the needs of the people.

As the first VISTA's in Idabel, Miss Donez and her companion set out to determine what services would meet the people's needs. By discussing the question with the sheriff, welfare officials, the Bureau of Indian Affairs and the people themselves, they found that what was needed was a pre-school to prepare children to enter the local school.

The Indian children whose families live scattered on the outskirts of town all go to the public schools where they are in the minority. They enter first grade knowing little or no English, and those who are not unusually bright are often lost in the shuffle.

The volunteers presented the pre-school idea to the parents, explaining that it would give the child some of the special equipment and confidence he would need to face the frightening and often defeating experience of public school. Many parents promised to give it a try and send their children the following week.

The girls spent their grocery money on some meager supplies and refreshments, turning the modern one-room community center left there by missionaries into a school house. Miss Donez recalls vividly every carefully considered purchase; one coloring book, a few pencils, a box of broken crayons, one pad of paper, three little books and some orange juice.

But on the first day, despite the promises of the previous week, no one came. When they had waited for an hour, the volunteers packed up the supplies, and hoped for better results the next day.

The following day one youngster arrived and by the end of the week enrollment was up to 12. Soon after word of the preschool spread, the young teachers had another problem. Older children, enrolled in the public school, were coming in to see what was attracting their little brothers and sisters.

Miss Donez is the daughter of Mrs. Mercedes Donez of 625 Fox Street.

SMALL BUSINESS CRIME INSURANCE

Mr. PROXMIRE. Mr. President, the Small Business Subcommittee of the Committee on Banking and Currency has just reported a bill providing crime and riot insurance for small businessmen in crime-stricken areas. The Senator from New Hampshire [Mr. McINTYRE], chairman of the subcommittee, has done an excellent job in bringing this bill forward. I believe the bill will go a long way toward aiding one of our most pressing problems. Following the series of riots last summer in New York, Detroit, and Milwaukee, and elsewhere, it is becoming increasingly difficult for small businesses to survive in the ghetto. This works a hardship not only on the small businessmen but on the residents of the area who are deprived of vital services.

Mr. President, I was pleased that the subcommittee adopted an amendment that the Senator from Illinois [Mr. PERCY] and I submitted which encourages the Small Business Administration to make a greater effort to develop more small business opportunities for ghetto residents. We need to make a much greater effort to encourage ghetto residents to own and operate their own business concerns. This will contribute to a more stable and orderly community and will reduce the rate of crime and violence. At the same time it will eliminate the need for special subsidized crime insurance and thus benefit the taxpayer.

A QUARTER-CENTURY HOMECOMING

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excellent speech delivered by Loren Haarr, of Twodot, Mont., who is president of Associated Students, University of Montana, and a speech delivered by me.

The speeches were delivered at the University of Montana Foundation dinner held at the Civic Center, Helena, Mont., October 14, 1967.

I invite attention to the thought-provoking and well-thought-out remarks of Mr. Haarr, who in his speech gives all of us much to think about.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

SPEECH OF LOREN HAARR, PRESIDENT, ASSOCIATED STUDENTS, UNIVERSITY OF MONTANA

The year is 1967. Man has lived with nationalism for several thousand years; the history of which has been war with occasional outbreaks of peace.

Nationalism by nature is a system which tends to amplify the already existing problem of communication. Culture and language differences become barriers which serve to impede communication as effectively as any geographic separation. It has become obvious, I think, that these misunderstandings result in distrust among nations which leads inevitably to war.

Most of man's greatest conflicts of the past have been a macabre-comedy of errors through a lack of communication and understanding, and these same reasons lie at the roots of our present cold war involvements. I speak then for myself and my generation when I salute the Mansfield Lecture Series and those men and women responsible for its inception. Understanding cannot possibly be reached when we rely only on our mass media sources. Even the college classroom cannot possibly provide as much information as can a first-hand confrontation with a person whose life has been devoted to an understanding of the peoples of other nations. The funding and prestige behind this program will place great minds in contact with the students at the University of Montana and for that matter, the citizens of the whole state. If any generalization can be made about my generation, it would be that we seek the truth. Regrettably, in our quest for truth, the impatience of youth leads to an over-zealous search, which is usually interpreted as radicalism. But this is not our aim. We realize that the world has grown too small for understanding and that the consequences of mistrust are too grave for the twentieth century. And may I say further, that you are supporting the most important of educational programs. For in spite of existing values of our contemporary civilization, man's first value as a human being is not to automate everything, but to learn to live together in peace.

For these reasons then, I am honored to express my gratitude to Senator Mansfield and all of you concerning this matter. May we all learn peace.

A QUARTER-CENTURY HOMECOMING

(Statement by Senator MANSFIELD)

Sometimes it is suggested in the Senate that if you want to know what I am thinking listen to what George Aiken is saying. It has never been clear whether this means that my thoughts prompt George Aiken to speak or that his words prompt me to think. In any event, I want to assure you that I did not have anything to do with the comments which he has made although I am grateful for what he has just said.

I am grateful not only for his comments about me, even if they are undeserved, I am also grateful for the kindness and consideration which Senator Aiken has shown to the University and to me personally by coming here with his lovely wife, Lola Aiken, for this occasion.

George Aiken is the Dean of the Senate Republicans. He is a highly valued colleague, a wise counsellor and the warmest of friends. Before all else, he is a great American and a great human being. He comes from one of the smallest states of the union but he looms as a towering figure in the leadership of this nation. There is no man more trusted or more esteemed, nor more deserving of trust and esteem in the government of the United States.

As a friend, wherever George Aiken is, he brings by his very presence the warmth of a glowing fireplace, the freshness of a new fall of snow, and the liveliness of sleighbells. As a member of the Senate, he adds luster and dignity to the institution and he contributes strength, good sense, and human decency to its acts.

George Aiken is the personification of Vermont. He is all that is best in the New England tradition and in American public life. I know that I speak for all Montanans when I say that we are honored and delighted by his visit with us.

For a quarter of a century, it has been my privilege to represent Montana in the Congress of the United States. Along with responsibilities, this public service has brought me deep personal satisfactions. It has also had, I regret to say, one serious drawback. It has compelled me to live and work far from the State. That has not been easy, especially since my heart never left home in the first place.

In 1942, as a new Member of the House of Representatives, I had no idea how long Montanans would want me to stay in Congress. I was persuaded then, as I am now, however, that if I did not forget the people of Montana, they would not forget me. Twenty-five years is a long time but I have not forgotten. The tie which holds me to the State has grown stronger with the passing of time.

Over the years, I have come home to Montana many, many times. Yet it has never seemed often enough, or for long enough. I have come home for reasons political and non-political; to campaign for office, to escort a President, to open a dam, to gauge an earthquake's damage, to measure the depths of a recession or the ravishes of a long and bitter winter.

I have come home to talk with editors and reporters, with teachers, with students, with children. I have come home to talk with businessmen, farmers, and workers in every part of the State. I have come home to talk with long-rooted Montanans, with new arrivals and with wayfarers in the cities and towns, in the mountains and on the plains of the State.

There have been homecomings for a hundred specific reasons and homecomings for no particular reason. Those which I remember best, tonight, are the personal homecomings, the homecomings of any Montanan away who has felt the need to be reimmersed in the beauty of the State, in the sense of its history, and in the warmth of its people and so to be renewed from the deep wellsprings of Montana life.

A few weeks ago I tried to describe this need to friends in Washington who gathered for the same purpose which brings us together tonight. How do you explain to those who are not of this State why it is that Montanans outside Montana are always homesick for Montana?

I tried to tell them of the symphony of color which surrounds us. Of the shades of red and purple on the plains. Of the blue of the big sky as it is reflected in a mountain lake and of the ice blue of a tumbling stream. Of the white of drifting clouds and the white of snow on a mountain peak. Of the infinite variations of green in the valleys and in the great forests. Of the rainbows on the hillsides when the heather, the columbines, the Mariposa lilies, the bitterroot, the Kinnikinnick and a hundred other wild flowers and shrubs are in bloom.

I asked them too,—these friends of Montana in the East—to listen to the symphony of Montana in the unique sounds which our children begin to hear almost as soon as the baby's rattle is put aside. They listened and they heard the music which echoes in the names of mountain ranges like the Beaverhead, the Sapphires, the Rubys, the Bear Paws, the Highwoods, the Crazies, and the Big and Little Belts. They heard it, too, in the rivers and streams which we call the Jefferson, the Madison, the Gallatin, the Milk, the Tongue, the Powder, the Boulder and the like. They heard it as I read the roll of some of our cities and towns—cities and towns with names like Eureka, Chinook, Whitefish, Cut Bank, Circle, Hungry Horse, Absarokee, Butte, Wolf Point and Great Falls. And Lodge Grass, Lame Deer, Deer Lodge, Crow Agency, Bigfork and Twodot.

I tried to tell them, too,—these friends who are not Montanans—something of our history. Of its beginnings with the Indians, with the Crows, the Blackfeet, the Assiniboine, the Flatheads, the Northern Cheyennes, and the Chippewa-Crees and all the rest. Of its modern inception in the Lewis and Clark expeditions and the opening of the fur trade and then the gold rush. I told them of the birth of a ghost town, of Confederate Gulch, of how it grew on gold from population zero to 10,000 in six years and how, in the seventh, the gold was gone and only 64 lonely souls remained. I told them something of our violence—of Henry Plummer, the Sheriff who murdered and plundered 102 of the citizens he was supposed to be protecting before he was hung by the Vigilantes. And I told them something of our decency—of Wesley Van Orsdel—Brother Van—the Methodist Minister who got off a steamer at Fort Benton and went to the Four Deuces saloon which closed the bar for an hour in order that the patrons might hear his sermon.

I mentioned these almost legendary figures of our history and other renowned Montanans who came out of the turbulence of a new State in a young country and left the mark of their fierce convictions on the Federal Government. I told them, for example, of the old master, Charlie Russell, the greatest artist of the West in all the history of the Republic, of Jeanette Rankin who so deeply abhorred violence that she voted against the nation's entry into World War I and then cast the only vote against entry into World War II, of the great Thomas J. Walsh, of James Murray, Joe Dixon, and Burton K. Wheeler.

They heard, too, our friends in Washington a few weeks ago, of the "booms and busts," which were so characteristic of the State's economic history, as the emphasis shifted from gold, to silver and to copper at Butte and Anaconda. They heard of the overloading of the plains of Central and Eastern Montana with sheep and cattle until the cruel winter of 1886–87 turned 90 percent of the animals into frozen grotesques.

They heard of the railroads thundering out across the plains, and of settlers from Scandinavia, Germany, Poland, Yugoslavia, France, Italy, Spain, the United Kingdom, Ireland, and a score of other countries who were drawn by the "milk and honey" of free lands; they came in great droves until the great drought of 1917 left the earth parched and the people stricken.

In short, I tried to give them—these friends in the East—a glimpse of the Montana story, which, in the end, is the story of people. It is the story of a people who heard the siren call of the West and who knew dreams and the collapse of great dreams. It is a story of a people who have lived with fear as well as courage and with cruelty as well as compassion, of a people who have known not only the favor but the fury of a towering nature. It is the story of a people who, blended of what was found here with what was brought here, renewed the dream after each crumbling, a people who persevered and, at last, took distinct and enduring root.

That sense of Montana went with me to Washington a quarter of a century ago. It remains with me tonight. In the intervening years, I have tried to give it expression as one of the representatives of this State, in all of the Congressional confrontations with the issues of our times.

Some of these confrontations come to mind, tonight, as highlights in the sweep of events during the past twenty-five years. There was the war which began for us at Pearl Harbor, a year before I went to Washington, and ended in my second term. It ended, really, in the blinding flash at Hiroshima. In that instant the world threw off, at last, the nightmare of totalitarian violence, not yet realizing that it had entered upon a second nightmare born in the laboratories of science.

Since Hiroshima, we have lived in the shadow of nuclear war. It is twenty-five years later but neither by way of the United Nations or by any other means has it been possible to dispel the shadow.

The United Nations actually came into being almost simultaneously with the first explosion of the nuclear bomb. Even as the latter flashed the danger of an ultimate war, the former lit the hope of mankind for an enduring peace. The hope which burned brightly at first began to flicker as recrimination begat recrimination and quarrel followed quarrel between former allies. Then came the tidal wave of revolution in China and the brutal war in Korea. That war put to final rest the world's expectation of a simple peace, self-generated and automatically maintained.

Postwar disillusionments, as well as a growing American awareness of the realities of the world situation and simple human compassion led us to a Marshall Plan. Afterward, there came the North Atlantic Treaty, and a massive system of aid programs and alliances which have spread the power and resources of the United States over most of the globe. If I may digress, I want to reiterate the view to which I have given expression many times in many years. These programs and alliances have not only spread the nation's power and resources throughout the world. In my judgment, they have seriously overspread them. I have worked for a cautious curtailment of these commitments and it is my intention to continue to work for their curtailment.

After the breakdown of Korea, there began a search for ways to repair the great ruptures in the world. With the help of the United Nations, President Eisenhower negotiated a truce in Korea. Another was devised for Viet Nam and Indo-China by the Geneva Conference of 1954.

Throughout his administration, Mr. Eisenhower pursued a policy of reasonable reconciliation with the Communist countries. In particular, he restored contacts of civility with the Soviet Union by the cultivation of personal cordiality with its leaders.

The spark which was kindled by his predecessor was nurtured by President Kennedy. He brought a youthful energy and imagination into the search for peace and, in its pursuit, he ventured with prudence but without fear into new channels of policy. In the years of the renewal of hope for a durable peace under Presidents Eisenhower, Kennedy and Johnson, progress has been by no means steady or consistent. A tortuous step forward, all too frequently has been followed by a sudden step backward. A Camp David meeting of Eisenhower and Khrushchev and then a U–2 incident; a nuclear test ban treaty and a Cuban missile crisis; a resumption of limited commercial relations with Eastern Europe and an outbreak of severe hostilities in Southeast Asia.

In this fashion, the world has gone through crises after crises. We have been, I regret to say, too often on thin ice during this past quarter of a century. We are on thin ice now. I must tell you in all frankness that the situation which has grown out of the war in Viet Nam, in my judgment is the most serious and complex with which this nation has been confronted since the end of World War II. In a little over two years, the American commitment of manpower has had to be raised from 45,000 to over 450,000. Thirteen thousand young Americans have died in Viet Nam and our total casualties now surpass 100,000.

What has happened so far, moreover, may well be only prelude, unless the war can be brought to an honorable conclusion in the near future. As it is now, there lies ahead only the prospect of a deepening involvement and a further expansion of the conflict in Southeast Asia and, perhaps, a direct confrontation with Communist China. Even

now our planes which fly over North Viet Nam bomb less than 30 seconds away from the Chinese border and two have been shot down over the Chinese mainland during the past few months.

In these circumstances, to make light of the danger of war with China would be the height of irresponsibility. To do so, in my judgment, would be to play games with the security of this nation and, perhaps, with the very survival of civilization.

It has been said that foreign relations has been one of the loves of my life. I am not certain that love is the accurate word in view of the gloom with which I have just surrounded the subject. I do know, however, that the changes of the past quarter of a century have made it necessary for all citizens and, certainly, Members of the Senate to school themselves deeply in the circumstances and problems of international life.

The foreign policies of the nation affect in a very direct sense all Americans wherever they live. If there is any doubt about it, note that well over half the budget of the Federal Government—which is covered by your taxes—is consigned to defense expenditures. This year, the cost of military operations in Vietnam alone will run between $25 and $30 billion and military outlays as a whole will be well in excess of $70 billion.

In a very real sense, therefore, the great burden of federal expenditures originates in breakdowns of international peace and in the inability of the nations of the world to build a reliable structure of international order and security. In that sense, therefore, the study of foreign policy is not so much a love as it is an imperative. As a Senator of Montana, it is a responsibility which I owe to this State and to the nation.

I would not wish to leave the impression that, as viewed from Washington, the past twenty-five years have been uniformly grim and gray. On the contrary, we have been participants—all of us—in the marvels which have been wrought by modern education, science and technology in these years of our times. When I was first elected to Congress the nation was producing goods and services at the then astounding rate of $158 billion a year. The current output is at an estimated $780 billion. All sectors of the economy and every geographic region of the country have benefited to some degree from the scientific and technological progress and the immense economic dynamism of the United States during the past quarter of a century.

That includes Montana. In fact, Montana is a good case in point. Great ribbons of modern highways now criss-cross the State. I have already mentioned the dams built and building to curb the headlong rush of Montana's water to the sea. Hundreds of smaller projects aid in this task and also serve to transform once arid lands into productive oases. Power lines, both private and co-operative, cover the State in an ever growing network. Airports dot the landscape. Magnificent federal and State parks put the highway and airport systems to the test by attracting an ever-growing number of tourists. An enormous increase in classrooms and an expanded university complex reflect the addition of 150,000 persons to the State's population as well as a national determination to improve the quality and availability of education for young people.

In these ways and others, the progress which has been made arises from a creative federal-state-local partnership and both public and private initiatives. That is another way of emphasizing that in addition to being citizens of Montana or Pennsylvania or Alaska or Vermont, we are also—all of us—Americans linked in a common national effort and a common national destiny. If I have learned anything in my associations in Washington with people from all parts of the country, it is that "we are all in this together."

It would be my hope that we will bear in mind this essential unity as we move towards the last quarter of the 20th Century. The future of Montana can be found only in a nation with a future, even as the nation's future requires a world with a future.

As Montanans we have unique State problems and unique State assets. They have to do in great part with the conservation of our human endowment no less than with the wise usage of our natural endowment. I refer to the tendency of too many of Montana's young people to go away and to build their lives outside the State. Our great task in the years ahead will be to open within Montana new frontiers of opportunity for young men and women—in education, in science and technology, in industry and in every aspect of modern interest and endeavor. We want and we need our young people here.

As Americans as well as Montanans we also have a responsibility to contribute to the fullest extent possible to the solution of the problems which are crowding in upon the rapidly growing and urbanizing population elsewhere in the nation. Montana's sparse population has spared us many of these difficulties at least for the present. We are not exempt, however, from a share of national responsibility, under the Constitution, for a contribution to the resolution of these difficulties.

Similarly, we have a responsibility to make felt in the foreign policies of this nation what I described as "the sense of Montana." Let me make clear, therefore, that as long as the people of this State ask me to represent them in the Senate, I intend to go on working in every appropriate way in cooperation and in the independent responsibilities of my office for an end to the war in Viet Nam in an honorable peace. I intend to make whatever contribution I can to the lifting of the fear of a cosmic world conflict in order that the immense energies and resources, which are now paid in tribute to that fear, may be redirected one day to the constructive works of a nation at peace in a world at peace.

That is the fundamental task which confronts this nation as it does all nations. Indeed, it gives special meaning to the purpose for which we are gathered tonight, because the lecture series on international relations which is projected can open new channels of understanding between the people of this State and our neighbors on this globe.

I need not tell you that the realization that these lectures will be taking place in my name has given me, if I may use the words, my finest hour. To be able to share it with you tonight fills my heart to the full. It is far more than I ever expected when I went to Washington to represent Montana in the Congress a quarter of a century ago. It is far more than I deserve.

Indeed, I should like this honor to go where it is most due—to the woman who set out with me from Butte so long ago and who has remained a wise counsellor and steadfast inspiration through all these years. Without her, I would not be in the Congress of the United States. Indeed, I should not have reached the University of Montana or for that matter ever receive a high school certificate. A more appropriate title for the lecture series, indeed, would be "The Maureen and Mike Mansfield Lectures."

I would like also to reiterate an earlier suggestion to the sponsors of this enterprise. If it is appropriate, in their judgment, I believe a modest maximum should be established for the capital of the Fund for the lectures on international affairs. If any additional monies should become available beyond that maximum, I should like to see the excess go into scholarship aid at the undergraduate or graduate level for the children of Montana's—and the nation's—first Americans who have not always had benefit in equal measure with the rest of us from Montana's development and the nation's progress. I refer to my friends and brothers—the Northern Cheyennes, the Crows, the Flatheads, the Assiniboines, the Blackfeet, the Chippewa-Crees, the Landless and all the others who live in Montana.

I suggest this procedure because the lecture series by its very nature turns our attention to the world beyond our borders and to the promise of a fruitful future for Montanans and all Americans in a world with a future. It is good that our attention is so directed provided we are also prepared to look inward and backward and so, remember what it is that we are building upon and that progress has its price. In that way we may be able to fill some of the gaps and heal some of the wounds which have been opened in the process of arriving at where we are. In that way, we shall better tie the past into the present and open wider the horizons of the future.

SEVENTY-ONE NATIONS HAVE RATIFIED THE GENOCIDE CONVENTION—UNITED STATES CONSPICUOUSLY ABSENT FROM THE LIST

Mr. PROXMIRE. Mr. President, in 1949, when President Harry Truman submitted the Genocide Convention to the Senate for this body's advice and consent, only five nations had ratified the Genocide Convention.

Now, 18 years later, that list has grown to a total of 71 nations. The Senate has done nothing during the intervening 18 years except to hold subcommittee hearings in 1950.

I think it is particularly worth noting that the following nations have seen fit to ratify an international treaty outlawing the barbaric practice of genocide: Albania, Bulgaria, China, Cuba, Czechoslovakia, Federal Republic of Germany, Hungary, Israel, Italy, Rumania, Poland, U.S.S.R., and Yugoslavia. I think it is both a disgrace to the Senate and a disgrace to the American people that the United States is not included among those members of the family of nations which have ratified this first great human rights convention.

In the hope that it will prompt long-over-due action by the Senate and its Committee on Foreign Relations, I ask unanimous consent that the total list of the 71 nations which have ratified the Genocide Convention be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Countries which are parties to the Genocide Convention:

Afghanistan	Congo (Democratic Republic of)
Albania	Costa Rica
Algeria	Cuba
Argentina	Czechoslovakia
Australia	Denmark
Austria	Ecuador
Belgium	El Salvador
Brazil	Ethiopia
Bulgaria	Federal Republic of Germany
Burma	Finland
Byelo Russia	France
Cambodia	Ghana
Canada	Greece
Ceylon	Guatemala
China	Haiti
Chile	
Colombia	

Honduras	Panama
Hungary	Peru
Iceland	Philippines
India	Poland
Iran	Republic of Korea
Iraq	Republic of Vietnam
Israel	Rumania
Italy	Saudi Arabia
Jordan	Sweden
Laos	Syria
Lebanon	Tunisia
Liberia	Turkey
Mexico	Ukraine
Monaco	U.S.S.R.
Mongolia	United Arab Republic
Morocco	Upper Volta
Netherlands	Uruguay
Nicaragua	Venezuela
Norway	Yugoslavia
Pakistan	Total: 71.

ADDRESS BY HON. ALLAN SHIVERS AT 50TH ANNUAL MEETING, AMERICAN CHAMBER OF COMMERCE, MEXICO CITY

Mr. TOWER. Mr. President, yesterday in Mexico City, a former Governor of Texas, the Honorable Allan Shivers, delivered a memorable address before the 50th annual meeting of the American Chamber of Commerce in Mexico. Mr. Shivers is now the president of the Chamber of Commerce of the United States.

His speech, entitled "Friends in Progress," deserves the attention of the Senate. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

FRIENDS IN PROGRESS

(By Allan Shivers, president, Chamber of Commerce of the United States, before 50th annual meeting of the American Chamber of Commerce in Mexico, Mexico City, Mexico, November 8, 1967)

Throughout the Free World, where man has won his primary fight for liberty, he tends to concentrate on two goals: personal gain and equal treatment—wealth and justice. Man wants to acquire, and he wants to be dealt with fairly in the pursuit and enjoyment of what he earns. And also in the name of social justice, he endeavors to help the disadvantaged to share in today's better life.

Collectively, these efforts add up to two corresponding national goals: economic growth and social progress. These are the two basic policies of every nation dedicated to serving its people. Communist countries, which hold that people exist to serve the state, care neither for property rights nor human dignity and that's why they fall so short of acceptance in the Free World community.

To you here, who represent both leadership and cooperation among the business interests of two great countries, the point I want to make is that we on both sides of our border, together with free men everywhere, are moving the same way, along the same road, for the same purposes. I think if we will realize more fully how much alike all free people are, and how our objectives and our struggles to attain them correspond, we will do more to make this a friendlier and more abundant world.

Let me offer one glimpse of the growing similarity of our problems. Here are two sentences from a recent sociological report on one of our two countries.

"It has been impossible, physically and financially, for the cities to cope with the flood of migrants . . . . . in cities where growth has been so rapid, low-income families arriving from the rural areas have accentuated the squalor of existing slums."

That happens to have been written about Mexico. But the same thing is being said of the United States every day, in about the same words.

Not only are our main problems alike, but our comprehension of them is developing along the same lines. We are learning more, for example, about the need for economic and social gains to go hand-in-hand. We know that national wealth should not accumulate without careful regard to the needs of all the people, nor should the people's needs dictate remedies that a nation cannot afford, and thus choke off the sources of wealth and improvement. We know that now—most of us do, at least—because we live in a more enlightened age and also because we have seen the results of the right and wrong kinds of progress. But we haven't had this knowledge very long, as history goes.

We in the United States built up a huge industrial economy out of low-cost production before giving serious attention to the needs for social equity. Great Britain and some other European countries did the same thing. Industrialization to us, for a long time, meant low wages and long hours for workers; grime and congestion for plant communities; and want in the midst of plenty for large non-productive groups of our society such as the old, the orphaned and the disabled.

Now, of course, we are engaged in enormous programs to bring social gains into balance with our economic ability. We fight hunger and disease abroad. Our war on poverty at home competes for priorities with our war against Communist aggression in Southeast Asia. Our basic Social Security program has built up moral obligations to pay $400 billion in benefits to persons who are now, or have been, in our work force. That sum, incidentally, is larger than our whole staggering national debt.

At the same time we are by no means relying entirely on government to meet our social obligations.

United States employers voluntarily pay out $75 billion a year in fringe benefits to protect employees and their families against the hazards of old age, sickness, disability and death. This is three times as much as is being collected this year in Social Security taxes, half of which are also paid by employers and it is four times as much as dividends paid to stockholders. Almost $100 billion has accumulated in private pension funds, and employers have put up 85 per cent of it.

Whether we, in the United States, are doing enough, or are doing the right things to overcome social disadvantages, are subjects for arguments that probably will never end. The prospect is, however, that we will keep on doing more as long as our means permit.

Here in Mexico we see our own situation in reverse. In the Revolution of 1910, modern Mexico came into being on the wings of a social reform movement. You, our southern neighbors, are old hands at fighting poverty, illiteracy, disease and lack of skills. You are still improving your social system but you are now building industrialization on top of it. You are developing the means to provide more adequately for social needs.

In a different order, our two countries are trying to bring the same two purposes into balance. And as all of us here are well aware, Mexico is having phenomenal success. Last year the rise in Mexico's real gross national product was almost 7 percent, the largest gain in all Latin America. The United States gain was about 4 per cent. For 20 years, Mexico's manufacturing has averaged a yearly growth of 7.6 per cent, and it is becoming more diversified each year. The government and business community of Mexico deserve great credit for these achievements.

We realize that you of Mexico are not satisfied with this rate of progress. We know the extent of your social problem, of the requirements imposed by your high birth rate and the frustrations you face in planning economic development. But we have no doubts about your future success.

Where the Mexican economy stands today in relation to the United States economy is beside the point. Contrasts are meaningless in history's longer view. Aztec cities flourished here in Mexico, with well-organized trade and political systems, while our North American natives were still completely primitive.

A point of contrast that can be made, I think, is that if we in the United States had not industrialized at the period of history that we did—if we were only now laying our foundation of capital equipment—we would surely be building up our economic and social systems together, instead of putting industry first. The modern view of social responsibility would require this. And our expansion would be with more heart but less speed. That's the way it is in Mexico and so many other countries today.

A still more relevant point, however, and it applies to us all, is that no matter what the present state of our economic development is, if we want to make further progress—or even hold our own—we must allow for the basic requirements of growth. We must provide a good business climate, as reflected in government policies, in the skills and attitudes of the labor force, in marketing prospects and all the other factors that encourage investment. Infringements on management's right to manage and its ability to compete, and on investor's right to profits, are some of the consequences of pushing social reforms too rapidly for the economy to maintain in the course of its normal operations. The strains of rising taxes, and uncertainties and intrusions on management tend to discourage risk-taking investment.

The right to earn should be high on the lists of both social and economic necessities. Man's progress requires a job, and a growing population requires an expanding, job-producing economy. Government leaders practically everywhere understand this, but in political emergencies they sometimes feel compelled to put social concerns first, even if it means taking risks with the economy.

This happens everywhere. It would happen less frequently, I believe, if business leaders all over the Free World were more united in their defense of the basic principles of good economic conduct. By this means they could put up a stronger front in every country, and make their principles better understood. This approach works nationally—as is attested by our chamber of commerce movement—so why shouldn't it work internationally?

One of the chief rallying points for cooperation between our two countries is most surely the American Chamber of Commerce in Mexico. I know also of the fine spirit of partnership in this effort that is enjoyed by the American Embassy and the American Chamber.

Your own Mexico Amcham's BEDEL course is precisely the kind of effort that is needed everywhere. I'm sure there will be no end to the benefits from this method of spreading a better public understanding of the roles played by management, labor and capital. I hope you are letting the rest of the world know of your success with this economic education program.

In fact, as part of my congratulatory wishes to you on your Golden Anniversary, let me say that I hope your future planning includes a definite program for extending your influence abroad, especially through Latin America. You are the largest American chamber outside the United States and the largest foreign chamber in Mexico. Others should know what you do to help existing

industries to grow, and how you promote economic and cultural activities that attract more business to Mexico.

We in the United States are hopefully watching the renewed efforts to integrate the diverse economies of Latin America, and we see Mexico in a position to influence the outcome substantially. We are encouraged by the steady, if slow, progress within the Latin American Free Trade Association toward tariff reductions—and, perhaps more importantly—toward industrial rationalization, currency convertibility and political cooperation. We are impressed with the remarkable strides made by the Central American Common Market toward the same goals.

An outward-looking process of economic integration must take place if Latin America is to realize its full potential. And yet we recognize that there are serious obstacles to such integration, in the form of political, social, cultural, geographic and economic traditions of the individual Latin American states. Their stage of economic development ranges from the highly advanced position of Mexico to the disadvantaged condition of some of the Caribbean Islands. These differences must be dealt with in order to arrive at any new mutually beneficial trade arrangements between the United States and Latin America.

One hopeful sign is the attempt of smaller groups of states with relatively compatible economies to integrate on a sub-regional scale. I'm thinking particularly of the so-called "Andean five"—Venezuela, Colombia, Equador, Peru and Chile.

In this total effort Mexico is best equipped in almost every respect to be a leading influence. Everyone knows that the role of leadership is not always a comfortable one. It must be borne with much patience and diplomacy. But the only hope for a better world is that those best able to lead will meet the challenges.

The world is now a neighborhood. We should begin to take an interest in the fellow across the ocean similar to that we have in the man across the street. As it stands today, what the distant person does to improve his economic environment can mean as much to our lives as what the man next door does to spruce up his yard.

All our lives we have heard more about foreign competition than about foreign cooperation. This will not be the case much longer. Nor should it be. In our own communities we work side by side with our competitors in chambers of commerce and other civic groups. We do the same within our national organizations. What's wrong with taking a firm next step on the international path? We all have the same two goals of material and social progress. We are all trying to help the people of our own lands. We can make it an easier and friendly journey by helping each other as free men.

"E" AWARD FOR MILWAUKEE BANK

Mr. NELSON. Mr. President, on Wednesday, November 8, I had the pleasure of witnessing a ceremony in the Office of Secretary of Commerce Alexander B. Trowbridge, at which President Johnson's "E" Award was presented to the First Wisconsin National Bank of Milwaukee for its success in promoting foreign sales of U.S. products. The award was accepted by Mr. Joseph W. Simpson, chairman of the board, on behalf of the bank.

Ordinarily, when we think of export expansion, we think of manufacturing or agricultural enterprises. A bank, however, can contribute to this important national goal through its financing of exports and by providing international banking services. In the case of the First Wisconsin National Bank of Milwaukee, the dollar value of its export financing rose from less than $20 million in 1963 to more than $70 million last year. The actual value of the exports made possible by this financing was substantially larger than the extent of the bank's participation. Export expansion, as we all know, means more jobs, higher profits, and a stronger dollar in terms of our international balance-of-payments position. I should like to share with other Members the text of the citation which accompanied the "E" Award:

The First Wisconsin National Bank of Milwaukee has undertaken aggressive action to promote exports from Wisconsin through a substantially expanded network of foreign correspondent banks. Also by providing international finance expertise and factoring services, establishment of a foreign exchange trading department, and wide dissemination of export trade opportunities, the Bank has stimulated interest in, and furnished vital tools for, increased foreign trade. These resourceful export promotion efforts reflect credit on the management and staff of First Wisconsin and on the American free enterprise system.

WHITE TIE AND DAGGER

Mr. HARTKE. Mr. President, President Johnson and his administration masterminded a deception of the Communists which held down terrorism in Vietnam during their recent elections, we are told in a new book.

Andrew Tully, the hard-hitting columnist and prolific writer of books about Washington and the Government, has turned out what appears to be another best seller. I have just read "White Tie and Dagger," which purports to be an inside story of activities along the embassies of Washington.

The first chapter tells the fascinating story of how our Government is supposed to have fooled the Communists. Mr. Tully says that the administration, on orders from the President himself, leaked stories that we are something less than pleased with General Ky and that we could not care less how the election turned out.

So deftly was this done, Mr. Tully reports, that the Reds took it to mean that we were prepared for the defeat of our friends in the elections. Thus, the order went out to the Vietcong to hold down terrorism and allow elections in most places to proceed.

It was only a day or so before the election, when Hanoi began getting nervous, that terrorism became the order of the day, says Mr. Tully.

His book carries a flavor of personal knowledge and accurate reporting. If it has some fictional embelishment, it has all the fascination of truth nevertheless. And probably it is true or at least as close as a good reporter can come to it.

Senators who have, after all, wide interest in foreign relations, will find "White Tie and Dagger" good reading on the intrigue of diplomacy.

AN INVALUABLE NATIONAL RESOURCE: BITUMINOUS COAL

Mr. BYRD of West Virginia. Mr. President, the Nation's largest proven source of energy is bituminous coal, of which my State of West Virginia for many years has been the leading producer. But energy to turn the wheels of industry is far from all that can be produced from coal. Locked within this marvelously complex substance are the chemical "building blocks" from which literally thousands of synthetic products of great value to our economy can be derived.

The Office of Coal Research of the Department of the Interior is now engaged in research efforts aimed at making coal an even more valuable national resource. Products as varied as fabrics woven from coal chemicals, gasoline to power our cars, and fly-ash bricks to build our homes are now in the realm of commercial possibility as a result of OCR's activities.

Mr. George Fumich, Jr., Director of OCR, in an address before the Kentucky Coal Association and the Lexington, Ky., Rotary Club on November 2 and 3, spelled out in considerable detail the possibilities that lie ahead for the fullest utilization of our coal resources. I believe that the members of the Senate and House will find this address of considerable value in connection with OCR's good work.

I ask unanimous consent that the text of the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

DESTINY OF THE BLACK DIAMOND

Thank you for giving me this opportunity to express my views as to the future role of coal in the rapidly growing and rapidly changing national energy picture.

Coal plays a vital role in the economy of Kentucky. Last year more than 93 million tons were produced in your State, a production total second only to that of West Virginia. More than 22,000 miners were employed, and directly and indirectly the coal industry contributed about $300 million to the Kentucky economy. Coal, the "black diamond," has long been important in your State. For many years major steel interests, such as U.S. Steel, Republic, Canadian Steel, and International Harvester have operated metallurgical-grade mines. Noncaptive producers are opening new mines, both in Eastern and Western Kentucky, with surprising rapidity.

The use of energy is growing at an astronomical rate. Look back over the centuries, over a span of nearly 2,000 years, for a perspective as to the growing requirements for energy in this world. During the past 100 years of those centuries, we have used as much coal, petroleum, wood, and agricultural waste as energy as were used in the preceding 1900 years. The Nation's consumption of fuel is expected to double and then redouble before the new century begins.

Today, the United States is responsible for half of the world's energy consumption. Individually, every citizen of our country requires ten times more energy for "the American way of life," than his counterpart elsewhere in the world. To meet these insatiable demands in 1966, we relied upon petroleum for about 40 percent and natural gas for 30 percent; coal provided about 22 percent, and others 8 percent.

Statistically, the application of this energy in the market place worked out something like this in 1965; industry, 23 percent; transportation, 24 percent; space heating and cooling, 22 percent; generation of electricity, the remaining 21 percent.

Thus, the present picture is encouraging. But what is the destiny of the Black Diamond? Why is the Government concerned

with its future, and what are we in OCR doing about it?

It is believed that coal production in the United States began about 1820, when 14 tons were reportedly mined. Since that time production increased steadily until about 1907, after which the rate has fluctuated between the extremes of about 400 and 700 million short tons per year. Last year it was 534 million tons.

Our known recoverable coal reserves total about 84 percent of our national supply of fossil-fuel energy. Depending on how we define known recoverable reserves, this figure would vary somewhat and might change slightly if undiscovered recoverable reserves were added, but the over-all picture would remain about the same. In this context coal comprises approximately four times the energy reserve of our total oil, oil shale, ash sands, bituminous rocks, gas, and other fossil fuel supplies. This vast, untouched reserve constitutes mineral wealth that can prove to be of tremendous value to the Nation—in Appalachia in the East, in the Middle West, the Great Plains, and in the Mountain West.

The United States economy is presently fueled and powered by oil, gas, and coal, and these sources will continue to be our major sources of energy for several decades even if the development of nuclear power proceeds as rapidly as recent trends indicate.

The reasons for this are:

(1) Nuclear generation facilities cannot be built and installed rapidly enough to meet both new and current demands. In spite of the current prospects for lower costs from nuclear sources authorities estimate that coal consumption for electric power generation will greatly increase by 1980 and while it may begin to decline after that, it will remain a major source of electric power through the remainder of the century—regardless of the cost differential that may develop between nuclear and coal-fired power.

(2) There is no prospect that the electric power industry—already growing at the rate of 7 percent per year—can grow fast enough to replace gas in less than several decades, even if cost were no object. Keep in mind that gas supplies about 30 percent of our total final demand for energy, whereas electricity furnishes about 20 percent. (Certain experts do believe that electricity may supply approximately 50 percent of the *total* energy market before the end of this century.)

(3) Liquid hydrocarbons are presently indispensable for transportation. Even if the electric automobile were to become economic, there is no prospect that it could replace the combustion engine for many years and the technology for replacing liquid fuels in air travel is not in sight.

For many decades then, the U.S. economy will have to depend on fossil fuels even if other sources of energy become cheaper. With this as a certainty, three major problems evolve: (1) the cost to the consumer of all fossil fuels will increase, in some cases substantially, unless technology of exploration, extraction, and conversion is much advanced; (2) it may be necessary to increasingly supplement petroleum and natural gas with synthetic fuels to avoid cost increases; and (3) atmospheric pollution, a present consequence of the use of some fossil fuels, is becoming unacceptable.

Coal is a vital factor in our future. Not only is it our largest fossil-fuel resource, but it is a possible source of both oil and gas, and it will be an essential source of electric power for many decades. For coal to play this vital role effectively, however, technologic advance is required: (1) to abate air pollution in the generation of electric power, preferably with the dividend of sulfur recovery; (2) to reduce the costs of thermal power; and (3) to provide alternate and cheaper sources of both liquid and gaseous hydrocarbons.

The Office of Coal Research concerns itself with expanding the competitive range of coal, both for energy and nonenergy applications. It is an integral and important part of Governmental activities designed to assure that ample energy resources are available to the Nation in the future.

Approximately 95 percent of U.S. energy is consumed for purposes in which several or all of the primary energy sources are potential substitutes either directly or through conversion. Such substitutions are limited by technology, economics, institutional factors, and consumer preference. Increased flexibility will contribute to the strength of the economy. Conversion of coal to more easily transported and utilized liquid and gaseous forms is the key to meeting these objectives. Success of the OCR program in providing complete energy interchangeability will permit the Nation to completely harness its vast coal reserves, and by so doing guarantee for many, many years the availability of energy in the desired forms across the widest spectrum of our Nation's needs and at the lowest possible cost.

The atom will play an increasingly important role in the expanding energy market, especially in the field of electric power generation. Yet it is vital to the national economy to maintain competition between conventional fuels and atomic power. A monopoly for any single energy source could be costly. Utilization of our vast coal reserves, via complete interchangeability with other fossil fuels and in more efficient power generation, will help to make this competition possible. This interchangeability can be assisted through research and technology. An expanded and interchangeable energy base in the coming years is a strong justification for the sponsorship of such research by the Federal Government. Conversion of coal to liquid and gaseous fuels will also be of importance in the event of a future national emergency.

Federal expenditures for coal research are minimal compared to the value of coal as a resource and as a factor in the national economy. Annual coal sales are of the order of $2.5 billion; directly and indirectly coal generates approximately $10 billion of the gross national product. Some fifteen million people live in areas where coal is produced, and they profit directly or indirectly from the income it generates.

The Destiny of the Black Diamond, our greatest fossil-fuel reserve, is keyed to finding new markets for it and better methods of using it, and this can be accomplished by "unlocking" it from its solid form. As we all know coal can be converted into liquid fuel, gas fuel, chemicals, electricity, and a great many other things. All of this has been done in the past. The trick is to develop more economical and competitive methods to do it again on a large scale in the future.

Now I shall turn to some of the prime areas to which OCR's thrust is directed. We have under contract major programs for the development of processes to produce liquid fuels (petroleum substitutes) from coal, and major programs to develop processes to produce pipeline-quality gas, essentially methane, from coal.

As I have said, known reserves of coal are by far the largest proven energy source available in our Nation. On the other hand, reserves of petroleum and natural gas have been decreasing in relation to demand, and are becoming more expensive to find and develop. If the coal conversion processes we are developing reach their presently projected goals, and the present trends of supply and demand in the petroleum and natural gas industry continue, it seems reasonable to many of us that an appreciable amount of our pipeline gas and liquid fuel will be made from coal within the next ten to fifteen years. We are not alone in this belief; a number of major "energy companies" are putting their money where their belief is.

Of great economic importance to the coal-producing areas, where these coal refineries are going to be located, is the fact that the new technology in making the primary conversion products also promises to provide large quantities of competitively priced by-products.

When these fuel-oriented conversion processes are in commercial operation, producing gasoline or pipeline-quality gas and other by-products, the coal industry will find itself in a situation analogous to that of the petroleum industry before the birth of petro-chemicals. Coal refineries will contain numerous streams of highly purified liquids and gases. Some portion of these streams can and may be diverted for conversion to products other than fuel, such as chemicals. The incremental cost to the refinery of this diversion will be low.

An exactly analogous situation led to the petro-chemical industry. While the tonnage of petro-chemicals is small compared to the tonnage of the major fuel products, and financial details are hard to come by, it is generally conceded that the petro-chemical part of the petroleum refinery complex is highly profitable. For this reason it is predicted that coal refineries will take on some of the aspects of the classical chemical industry—an integrated many-product operation. This development should take place at a much faster rate than it did in petro-chemicals. Petroleum was refined for nearly a century before petro-chemicals became well established. On the other hand the chemistry of coal derivatives has been exhaustively explored during the last century. Indeed, the whole enormous synthetic organic chemical industry was founded on coal. With the availability of ample quantities of low-priced pure product streams at coal refineries, an adjacent integrated coal-chemical industry should develop very quickly.

We all know that any type of fuel (excluding nuclear) and practically every synthetic organic can be made from the complex substance that is coal. There is no real question of technical feasibility. The problem is to produce sufficient supplies of high-quality coal-derived organic building blocks at competitive prices . . . and I believe that we are at the threshold of success.

The other major energy conversion field in which we are active is that of electric power generation. Many of you know that for some time now, the electric utility market has been the largest coal market. We believe that in spite of the possibilities of lower costs from nuclear sources, a strong research thrust in this area could help coal retain a major part of this tremendously expanding market. To date our efforts are centered on the development of new methods of energy conversion from the chemical energy of coal to electric energy, such as fuel cells, electrogasdynamic systems and thermionic topping. These new power generation systems have the potential of reducing the cost of coal-generated electricity through both increased thermal efficiency and reduction in capital investment. More research is required in this general area—in fact all across the spectrum from mining through preparation, transportation, utilization, and disposal of wastes.

Other programs supported by our Office are directly or indirectly related to these areas. Our marketing studies are directed toward improving the efficiency of distribution and enhancing the use of coal as a fuel, as our mining simulation studies do. The selling of flyash brick produced by the OCR process will improve the competitive position of coal as a boiler fuel. We are building a pilot plant to demonstrate the use of coal for sewage treatment. This coal will eventually be burned so that its energy values are not lost.

The Black Diamond may reach its brilliant destiny if current development programs are carried forward to a successful conclusion. It

then will be up to private industry to work out systems of integrated production plants.

The processes we are developing are most profitable when several are integrated. Most of the liquid and gas plants produce a by-product char which should be burned in an adjacent power plant boiler. In some instances excess heat energy from the process can best be used to generate electricity. Both the liquid fuel and the pipeline-gas production processes make other hydrocarbons from coal. Generally our objective is to use only coal, air, and water as raw materials.

The linking of these separate industries in a coordinated whole will require substantial amounts of private capital, the unraveling of new legal and financial complexities, as well as imaginative and superior management to plan and coordinate it. This *can* be done. The modern mine-mouth power plant is a first approach to such integrated operations.

Because of time limitations I have only mentioned our main thrust areas in the Black Diamond's destiny. I have not touched upon the coking, industrial, and overseas export markets—so you can see that I have not given you a complete picture. All of these are large and important markets, and although the first two seem to be leveling off in size, the overseas market is another growth area. We believe that stronger research efforts are required in these fields to make coal even more competitive.

All in all, we believe that the Black Diamond will reflect an even more brilliant future with many bright facets. As I've intimated, it may not be long before your brick homes are made of coal flyash brick, and if they are not already heated with coal-produced electricity they may be heated with coal-produced gas. The chances are that the car in your garage will have a "tiger in its tank" made from coal. And finally, we can't leave your beaming wife out of this picture. Why is she beaming? Well, she's just bought a beautiful new wardrobe—made from coal chemicals.

You will be living with the Black Diamond for a long, long time.

UNRESOLVED LEGAL ISSUES RAISED BY VIETNAM CONFLICT POINTED OUT BY DISSENTING SUPREME COURT JUSTICES

Mr. GRUENING. Mr. President, on November 6, 1967, the U.S. Supreme Court denied a writ of certiorari in the case of Mora and others against McNamara, Secretary of Defense, and others, without a written opinion.

The facts of the case as stated by Mr. Justice Stewart were as follows:

> The petitioners were drafted into the United States Army in late 1965, and six months later were ordered to a West Coast replacement station for shipment to Vietnam. They brought this suit to prevent the Secretary of Defense and the Secretary of the Army from carrying out those orders, and requested a declaratory judgment that the present United States military activity in Vietnam is "illegal." The District Court dismissed the suit, and the Court of Appeals affirmed.

While the Court did not state its reasons for denying the writ, both Mr. Justice Stewart and Mr. Justice Douglas rendered separate dissenting opinions, with each concurring in the other's dissenting opinion.

These dissents mark an important event and may serve as far-reaching benchmarks in rectifying the tragic involvement of the United States in an illegal, and immoral war in Vietnam in violation of the Constitution and of the basic international agreements to which the United States is a party.

It is, indeed, unfortunate that the majority of the Supreme Court did not see fit to grant the writ of certiorari and decide the issues raised.

These issues must be decided if the collision course which the United States is following is to be changed.

It is interesting to note that the two dissents were by two Justices who usually hold diverse views.

Mr. Justice Stewart described the issues raised by the appeal as "large and deeply troubling questions" and described them as follows:

> I. Is the present United States military activity in Vietnam a "war" within the meaning of Article I, Section 8, Clause 11 of the Constitution?
>
> II. If so, may the Executive constitutionally order the petitioners to participate in that military activity, when no war has been declared by the Congress?
>
> III. Of what relevance to Question II are the present treaty obligations of the United States?
>
> IV. Of what relevance to Question II is the joint Congressional ("Tonkin Bay") Resolution of August 10, 1964?
>
> (a) Do present United States military operations fall within the terms of the Joint Resolution?
>
> (b) If the Joint Resolution purports to give the Chief Executive authority to commit United States forces to armed conflict limited in scope only by his own absolute discretion, is the Resolution a constitutionally impermissible delegation of all or part of Congress' power to declare war?

Mr. Justice Douglas referred to recent testimony by Under Secretary of State Katzenbach in which he indicated that the passage of time has made the constitutional provision granting Congress the sole authority to declare war "outmoded."

Mr. Katzenbach, at the time, was speaking for the administration and, in that light, what he said has important implications for every citizen of the United States. If the executive branch can unilaterally declare the warmaking restrictions of the Constitution "outmoded," what other provisions of the Constitution restricting the powers of the executive branch does it now consider "obsolete"?

For example, does the executive branch now consider as "obsolete" the provision of the Constitution—article I, section 9, clause 7—stating:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.

Which provisions of the Bill of Rights does the executive branch now consider "obsolete"?

If the executive branch has now taken upon itself the authority to revise the Constitution by fiat, that assumption of authority should at least be passed upon by the Supreme Court. The sooner the Supreme Court speaks out clearly on this vital issue the better it will be for the Nation and all its citizens.

I ask unanimous consent that the dissenting opinions of Mr. Justice Stewart and Mr. Justice Douglas in the case of Mora et al. against McNamara, Secretary of Defense, et al., issued on November 6, 1967 be printed in the RECORD.

There being no objection, the dissenting opinions were ordered to be printed in the RECORD, as follows:

[Supreme Court of the United States, October Term, 1967]

MORA ET AL. *v.* MCNAMARA, SECRETARY OF DEFENSE, ET AL., ON PETITION FOR WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

(No. 401: Decided November 6, 1967)

Mr. Justice Douglas, with whom Mr. Justice Stewart concurs, dissenting.

The questions posed by Mr. Justice Stewart cover the wide range of problems which the Senate Committee on Foreign Relations recently explored,[1] in connection with the SEATO Treaty of February 19, 1955,[2] and the Tonkin Gulf Resolution.[3]

Mr. Katzenbach, representing the Administration, testified that he did not regard the Tonkin Gulf Resolution to be "a declaration of war"[4] and that while the Resolution was not "constitutionally necessary" it was "politically, from an international viewpoint and from a domestic viewpoint, extremely important."[5] He added:[6]

"The use of the phrase 'to declare war' as it was used in the Constitution of the United States had a particular meaning in terms of the events and the practices which existed at the time it was adopted. . . .

"[I]t was recognized by the Founding Fathers that the President might have to take emergency action to protect the security of the United States, but that if there was going to be another use of the armed forces of the United States, that was a decision which Congress should check the Executive on, which Congress should support. It was for that reason that the phrase was inserted in the Constitution.

"Now, over a long period of time, . . . there have been many uses of the military forces of the United States for a variety of purposes without a congressional declaration of war. But it would be fair to say that most of these were relatively minor uses of force. . . .

"A declaration of war would not, I think, correctly reflect the very limited objectives of the United States with respect to Vietnam. It would not correctly reflect our efforts there, what we are trying to do, the reasons why we are there, to use an outmoded phraseology, to declare war."

The view that Congress was intended to play a more active role in the initiation and conduct of war than the above statements might suggest has been espoused by Senator Fulbright (Cong. Rec. Oct. 11, 1967, p. 28590–28597), quoting Thomas Jefferson who said:[7]

"We have already given in example one effectual check to the Dog of war by transferring the power of letting him loose from

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[1] Hearings on S. Res. No. 151, 90th Cong., 1st Sess. (1967).

[2] [1955] 6 U.S.T. 81, T.I.A.S. No. 3170.

[3] 78 Stat. 384.

[4] Hearings, on S. Res. No. 151, *supra*, n. 1, at 145.

[5] *Id.*, at 145.

[6] *Id.*, at 80–81.

[7] 15 Papers of Jefferson 397 (Boyd ed., Princeton 1955). In the Federalist No. 69, at 465 (Cooke ed. 1961), Hamilton stated:

"The President is to be Commander in Chief of the army and navy of the United States. In this respect his authority would be nominally the same with that of the King of Great Britain, but in substance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces, as first General and Admiral of the Confederacy; while that of the British King extends to the *declaring* of war and to the *raising* and *regulating* of fleets and armies; all which by the Constitution under consideration would appertain to the Legislature."

the Executive to the Legislative body, from those who are to spend to those who are to pay."

These opposed views are reflected in the *Prize Cases*, 2 Black 635, a five-to-four decision rendered in 1863. Mr. Justice Grier, writing for the majority, emphasized the arguments for strong presidential powers. Justice Nelson, writing for the minority of four, read the Constitution more strictly, emphasizing that what is war in actuality may not constitute war in the constitutional sense. During all subsequent periods in our history—through the Spanish-American War, the Boxer Rebellion, two World Wars, Korea, and now Vietnam—the two points of view urged in the *Prize Cases* have continued to be voiced.

A host of problems is raised. Does the President's authority to repel invasions and quiet insurrections, his powers in foreign relations and his duty to execute faithfully the laws of the United States, including its treaties, justify what has been threatened of petitioners? What is the relevancy of the Gulf of Tonkin Resolution and the yearly appropriations in support of the Vietnam effort?

The London Treaty (59 Stat. 1546), the SEATO Treaty (6 U.S.T. 81, 1955), the Kellogg-Briand Pact (46 Stat. 2343), and Article 39 of Chapter VII of the UN Charter deal with various aspects of wars of "aggression."

Do any of them embrace hostilities in Vietnam, or give rights to individuals affected to complain, or in other respects give rise to justiciable controversies?

There are other treaties or declarations that could be cited. Perhaps all of them are wide of the mark. There are sentences in our opinions which, detached from their context, indicate that what is happening is none of our business:

"Certainly it is not the function of the Judiciary to entertain private litigation—even by a citizen—which challenges the legality, the wisdom, or the propriety of the Commander-in-Chief in sending our armed forces abroad or to any particular region." *Johnson* v. *Eisentrager*, 339 U.S. 763, 789.

We do not, of course, sit as a committee of oversight or supervision. What resolutions the President asks and what the Congress provides are not our concern. With respect to the Federal Government, we sit only to decide actual cases or controversies within judicial cognizance that arise as a result of what the Congress or the President or a judge does or attempts to do to a person or his property.

In *Ex parte Milligan*, 4 Wall. 1, the Court relieved a person of the death penalty imposed by a military tribunal, holding that only a civilian court had power to try him for the offense charged. Speaking of the purpose of the Founders in providing constitutional guarantees, the Court said:

"They knew . . . the nation they were founding, be its existence short or long, would be involved in war; how often or how long continued, human foresight could not tell; and that unlimited power, wherever lodged at such a time, was especially hazardous to freemen. For this, and other equally weighty reasons, they secured the inheritance they had fought to maintain, by incorporating in a written constitution the safeguards which *time* had proved were essential to its preservation. Not one of these safeguards can the President, or Congress, or the Judiciary disturb, except the one concerning the writ of *habeas corpus*." *Id.*, 125.

The fact that the political branches are responsible for the threat to petitioners' liberty is not decisive. As Mr. Justice Holmes said in *Nixon* v. *Herndon*, 273 U.S. 536, 540:

"The objection that the subject matter of the suit is political is little more than a play upon words. Of course the petition concerns political action but it alleges and seeks to recover for private damage. That private damage may be caused by such political action and may be recovered for in a suit at law hardly has been doubted for over two hundred years, since *Ashby* v. *White*, 2 Ld. Raym, 938, 3 *id.* 320, and has been recognized by this Court."

These petitioners should be told whether their case is beyond judicial cognizance. If it is not, we should then reach the merits of their claims, on which I intimate no views whatsoever.

[Supreme Court of the United States, October Term, 1967]

MORA ET AL. *v.* MCNAMARA, SECRETARY OF DEFENSE, ET AL., ON PETITION FOR WRIT OF CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

(No. 401: Decided November 6, 1967)

Mr. Justice Steward, with whom Mr. Justice Douglas joins, dissenting.

The petitioners were drafted into the United States Army in late 1965, and six months later were ordered to a West Coast replacement station for shipment to Vietnam. They brought this suit to prevent the Secretary of Defense and the Secretary of the Army from carrying out those orders, and requested a declaratory judgment that the present United States military activity in Vietnam is "illegal." The District Court dismissed the suit,[1] and the Court of Appeals affirmed.[2]

There exist in this case questions of great magnitude. Some are akin to those referred by Mr. Justice Douglas in *Mitchell* v. *United States*, 386 U.S. 972. But there are others:

I. Is the present United States military activity in Vietnam a "war" within the meaning of Article I, Section 8, Clause 11 of the Constitution?

II. If so, may the Executive constitutionally order the petitioners to participate in that military activity, when no war has been declared by the Congress?

III. Of what relevance to Question II are the present treaty obligations of the United States?

IV. Of what relevance to Question II is the joint Congressional ("Tonkin Bay") Resolution of August 10, 1964?

(a) Do present United States military operations fall within the terms of the Joint Resolution?

(b) If the Joint Resolution purports to give the Chief Executive authority to commit United States forces to armed conflict limited in scope only by his own absolute discretion, is the Resolution a constitutionally impermissible delegation of all or part of Congress' power to declare war?

These are large and deeply troubling questions. Whether the Court would ultimately reach them depends, of course, upon the resolution of serious preliminary issues of justiciability. We cannot make these problems go away simply by refusing to hear the case of three obscure Army privates. I intimate not even tentative views upon any of these matters, but I think the Court should squarely face them by granting certiorari and setting this case for oral argument.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SAFETY REGULATIONS FOR TRANSPORTATION OF NATURAL GAS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 1166) to authorize the Secretary of Transportation to prescribe safety regulations for the transportation of natural gas by pipeline, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate resumed the consideration of the bill.

AMENDMENT

Mr. LAUSCHE. Mr. President, I send to the desk an amendment to the committee amendment, the purpose of which is to bring within the purview of this law what is supposed to be a sacred cow—the gatherers of gas.

The PRESIDING OFFICER. The amendment offered by the Senator from Ohio will be stated.

The ASSISTANT LEGISLATIVE CLERK. It is proposed, on page 4, line 10, to insert the following: The word "gathering," before the word "transmission."

On page 8, delete lines 16 through 20, as follows:

(f) Not later than one year after the date of enactment of this Act, the Secretary shall report to the Congress on the need for Federal safety standards for gathering lines for the transportation of gas, together with such recommendations as he deems advisable.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, notwithstanding the provisions of rule VIII, I ask unanimous consent that the distinguished senior Senator from New York be recognized out of order on a nongermane subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LESSONS OF HISTORY AND TODAY'S SECURITY COUNCIL MEETING

Mr. JAVITS. I thank the Senator from West Virginia.

Mr. President, I wish to address the Senate today on the situation with respect to our policy on the Middle East. One of the most profound obstacles to world peace is the continuing danger of international conflict in the Middle East. I feel, Mr. President, that some observations on the subject would be appropriate.

Mr. President, the Security Council of the United Nations is scheduled to meet today on the Middle East. There are indications that it may, at last, adopt a meaningful resolution. The actions and the position of the United States will have a major bearing on the outcome. Indeed, the principal resolution to be considered by the Security Council, or at least one of the principal resolutions, is the one introduced for the United States by Ambassador Goldberg.

[1] — F. Supp. — (D. D. C. 1966).

[2] — U.S. App. D.C. —, — F. 2d —.

The lessons of history are most pertinent to the situation we face today. In 1956–57 the United States was the key instrument in getting Israel first to withdraw its forces from the Sinai peninsula and to negotiate afterward, or at least that is what was thought at the time. Promises were made most solemnly to President Eisenhower by President Nasser, but, to the great embarrassment of the United States, they were not kept. The result of that sequence was 10 years of festering tension followed by war again in June of this year.

It will be recalled that in a letter of March 2, 1957, President Eisenhower expressed his conviction to the Israel Prime Minister that Israel "will have no cause to regret" its decision to withdraw from the territory of Egypt it had occupied, on the basis of roundabout assurances concerning Israel's national security.

President Eisenhower is a gentleman so honorable in his own behavior that he believed others would honor their pledges in the same spirit.

A decade ago, Israel agreed to withdraw first and negotiate later. It did so, we know historically, against its own better judgment. We also know that it did so on the basis of assurances that were nebulous but the integrity of which were underwritten by the United States.

The major assurances which Israel was given at that time were two: One was that the United Nations Emergency Force would move into areas evacuated by Israel and remain as a buffer force surveilling the cease-fire. The second was that the Gulf of Aqaba would be opened to Israeli shipping as an international waterway.

In May of this year the whole world saw how durable those assurances were. Emboldened by his Russian-equipped war machine, President Nasser one day told the United Nations Emergency Force to get out. He was not even polite about it—he just ordered it to pack and leave. It is no secret that the whole world was surprised, to say the least, when the United Nations Secretary General meekly complied in record time. But surprise, chagrin, disapproval, or alarm had no effect.

The next step was President Nasser's declaration that the Gulf of Aqaba was closed, notwithstanding the assurances of 1957, thereby blockading Israel's southern maritime approaches. President Nasser was by this time growing bolder each day in his assertions that a "state of war" had never ceased to exist between the Arab States and Israel. The efforts of the United States to organize some international show of force to reassert the principle of free maritime passage was overtaken by events.

Six days of brilliant military action brought a denouncement to the situation which had grown intolerable for the United Nations, the United States, and indeed the whole world outside the Arab States and the Communist blocs.

This brings us to the present date. King Hussein of Jordan has been a guest of our country these past few days. He has given several speeches which have received a great deal of sympathetic attention in our press and on TV. But while King Hussein has expressed himself in a vocabulary of moderation, which indeed we have become unaccustomed to hearing from chiefs of state of Arab countries, and has told us that his implied moderation is shared by President Nasser, history teaches us that such words must be matched by deeds. The U.S. public, and the State Department, must not be seduced by honeyed words. We must base our judgments and our actions on the deeds and not the tantalizing hints and promises of Arab chiefs of state who solicit and receive new, modern, and extensive Soviet arms while calling for peace and reason.

Above all, we must not once again be embarrassed by a formula like that of 1956–57—the formula of withdrawal first and then a promise of negotiations later. This proved to be a formula for disappointment and war.

The U.S. resolution which Ambassador Goldberg has introduced in behalf of our country merits the support of our Nation. There are two dangers, however. One is that we will back away from this excellent charter for a just and durable Middle East peace in our eagerness to see an agreement reached and to show our reasonableness and willingness to compromise. I think President Johnson knows this, Secretary Rusk knows it, and Ambassador Goldberg knows it. A meaningless, allegedly a compromise, watered-down resolution can only lead to grief again as it has before.

Mr. President, the real base of the U.S. resolution in the Security Council is paragraph 1. The elements contained in that paragraph are unexceptionable. However, there is one element of potentially mischievous ambiguity. The language does not specify a sequence in the relationship it establishes between Israeli withdrawal and the reciprocal guarantees of Israeli security and sovereignty.

Mr. President, on last June 28, the Senator from Missouri [Mr. SYMINGTON] and I submitted a resolution (S. Res. 143) on peace in the Middle East which was cosponsored by a total of 63 Senators.

I ask unanimous consent that the text of that resolution be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. The resolution stated that it is the sense of the Senate that—

> Such a peace calls for discussions among the parties concerned, using such third party or United Nations assistance as they may wish, looking toward—
>
> (a) recognized boundaries and other arrangements that will give security against terror, destruction, and war, and the consequent withdrawal and disengagement of armed personnel;

It stated, in other words, that withdrawal and disengagement should be consequent upon recognized boundaries and security. The resolution also called for—as does the U.S. resolution pending before the Security Council—a just and equitable solution to the refugee problem, free maritime passage through international waterways, including the Suez Canal and the Gulf of Aqaba and limits on a wasteful and destructive arms race.

One resolution, indeed, went a little further than the President's resolution before the Security Council and said:

> In a climate of peace, the United States will do its full share to—
>
> (a) Help with a solution for the refugees;
>
> (b) Support regional cooperation; and
>
> (c) See that the peaceful promise of nuclear energy is applied for the critical problem of desalting water.

Mr. President, the resolution from which I have just quoted expressed the clear view of a large majority of the Members of the U.S. Senate on the elements of a stable and durable peace in the Middle East.

It made clear our belief that negotiations should be consequent upon withdrawal, and that the withdrawal should not precede negotiations.

Mr. President, I trust that the views of 63 Senators on this key point will be borne in mind by our representatives when the moment of truth arrives in the Security Council.

Mr. President, as we know, these are delicate and difficult negotiations going on at the United Nations. I believe it only fair to say that the U.S. resolution is infinitely to be preferred to the resolution submitted by India, Malaysia, and Nigeria. The President of the United States is entitled to know and to have more vividly called to his attention the support for the general policy of the United States that is expressed in the resolution cosponsored by almost two-thirds of the Senate of the United States.

I ask unanimous consent that the draft of the resolution tabled by the United States in the United Nations also be printed in the RECORD at the conclusion of my remarks, so that Senators may compare it with the resolution of the Senator from Missouri [Mr. SYMINGTON] and myself, in which a large majority of the Members of the Senate concurred.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

S. RES. 143

Whereas the United States has a vital and historic national interest in a stable and durable peace in the Middle East; and

Whereas the President of the United States has stated the principles upon which our Nation is committed to peace in the area and that every nation in the area has a fundamental right to live and to have this right respected by its neighbors; and

Whereas the peace and security of the nations of the Middle East have been endangered by a wasteful and destructive arms race, threatened by belligerency and have just been shattered by hostilities endangering the peace of the entire world: Therefore be it

Resolved, That it is the sense of the Senate that—

(1) The security and national interests of the United States require that there be a stable and durable peace in the Middle East; and

(2) Such a peace calls for discussions among the parties concerned, using such third party or United Nations assistance as they may wish, looking toward—

(a) recognized boundaries and other arrangements that will give security against terror, destruction, and war, and the con-

sequent withdrawal and disengagement of armed personnel;

(b) a just and equitable solution to the refugee problem;

(c) free maritime passage through international waterways, including the Suez Canal and the Gulf of Aqaba, and

(d) limits on a wasteful and destructive arms race; and

(3) In a climate of peace, the United States will do its full share to—

(a) help with a solution for the refugees;

(b) support regional cooperation; and

(c) see that the peaceful promise of nuclear energy is applied for the critical problem of desalting water; and be it further

Resolved, That the President is requested to pursue these objectives, as reflecting the sense of the Senate, within and outside the United Nations and with all nations similarly minded, as being in the highest national interest of the United States.

EXHIBIT 2

THE TEXT OF THE DRAFT RESOLUTION SUBMITTED BY THE UNITED STATES ON THE MIDDLE EAST, NOVEMBER 7, 1967

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East,

Recalling its Resolution 233 (1967) on the outbreak of fighting which called, as a first step, for an immediate cease-fire and for a cessation of all military activities in the area,

Recalling further General Assembly Resolution 2256 (ES–V),

Emphasizing the urgency of reducing tensions and bringing about a just and lasting peace in which every state in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. *Affirms* that the fulfillment of the above Charter principles requires the achievement of a state of just and lasting peace in the Middle East embracing withdrawal of armed forces from occupied territories, termination of claims or states of belligerence, and mutual recognition and respect for the right of every state in the area to sovereign existence, territorial integrity, political independence, secure and recognized boundaries, and freedom from the threat or use of force;

2. *Affirms further* the necessity

a. for guaranteeing freedom of navigation through international waterways in the area;

b. for achieving a just settlement of the refugee problem;

c. for guaranteeing the territorial inviolability and political independence of every state in the area, through measures including the establishment of demilitarized zones;

d. for achieving a limitation of the wasteful and destructive arms race in the area;

3. *Requests* the Secretary General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the states concerned with a view to assisting them in the working out of solutions in accordance with the purposes of this resolution and in creating a just and lasting peace in the area;

4. *Requests* the Secretary General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

PRIVATE ENTERPRISE AIDS REDEVELOPMENT—NIAGARA MOHAWK

Mr. JAVITS. Mr. President, last week, with 23 Republican colleagues in the Senate, I introduced legislation to establish an economic opportunity corporation. One of the purposes of that corporation would be to gather and communicate information on ways in which private organizations might assist in antipoverty and community improvement activities. In connection with the introduction of that bill, I stated that there were dozens and perhaps hundreds of examples of ways in which local businesses, labor organizations, and other groups were assisting in home town efforts to fight poverty, and I commented that all interested parties would benefit from having the opportunity to study and learn from those examples.

I would like to bring to the attention of my colleagues today one such example which has developed within my own State. The Niagara Mohawk Power Corp. has for some time worked successfully to attract new industries to upstate New York and to assist local communities with their own industrial development efforts. More recently the corporation has begun work in the field of urban renewal and has published an attractive and highly informative 50-page booklet for New York State communities describing for them the workings of the urban renewal program and detailing methods of application.

Not only has Niagara Mohawk made this information available, however, but it has put its technical expertise to work to consult with and assist local communities in planning and conducting their own projects.

I think that it is interesting to note that Niagara Mohawk developed this assistance program for sound business as well as public interest reasons. They had done a study which showed the company had a vested interest in seeing urban renewal work better. For when buildings were demolished and land cleared, utility services were interrupted, and the longer it took to reestablish homes and businesses in those areas the less power was used.

I would like to give proper credit to some of the people in Niagara Mohawk who made this program possible, including Mr. Earl J. Machold, president of the corporation, Mr. Harry G. Slater, commercial vice president, and Mr. Allan A. Lynch, head of the Area Development Department. Two private consulting firms, Duryea & Wilhelmi of Syracuse, N.Y., and Larry Smith & Associates of New York City, provided important technical assistance, as did Mr. J. Arthur Rath of the Rath Organization of Syracuse, who prepared the publication itself.

This farsighted and public spirited program by Niagara Mohawk deserves to be brought to the attention of my colleagues and is yet another example of ways in which private enterprise—this time a public utility—can devote its talents usefully to redevelopment efforts. Mr. President, I ask unanimous consent that there be inserted in the RECORD at this point an excerpt from the corporation's publication, "Renewal Assistance for New York State Communities," which describes the technical and other assistance which it is making available to New York State communities.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PROFESSIONAL SERVICES FOR COMMUNITIES

Planning. Niagara Mohawk's assistance begins at the planning stage. Community Development specialists will counsel communities on preparing for planning activities such as those described on pages 6 to 13. This includes advice and aid in obtaining citizen support and understanding, liaison with government groups, and guidance in getting comprehensive planning underway—be it of a local, county, or regional nature.

Urban Renewal. On a continuing basis, the company assists with the dissemination of technical knowledge about urban renewal. It maintains personal contacts with key government, urban renewal, and development officials, and can serve as a liaison between all levels of government and the business community.

The company offers advice and assistance to urban renewal staffs in the preparation of project land disposition brochures and advertisements.

As a part of its overall area development promotion, the utility acts as a clearinghouse for publications of each locality. An inventory of such publications is maintained for distribution to prospects expressing an interest in a particular community.

Probably the most important contribution is the company's interest in helping to market and redevelop land within renewal areas. The cornerstones of this land marketing program are the efforts Niagara Mohawk makes to attract prospective redevelopers and the services which are offered to them.

PROFESSIONAL SERVICES FOR REDEVELOPERS

Data on Communities, Projects, and Parcels. To assist developers in appraising communities and gaining familiarity with various projects and parcels, the company offers valuable time-saving aid. Redevelopers do not have to contact all the sources which would normally provide them with information and they are saved the process of wading through documents, since the Department will capsulize this information for them.

Special Market Studies. In cases where the existing project marketability study is not comprehensive enough to suit the needs of a particular redeveloper, the company will subject to some discretion, prepare a special market study.

Referral To Financial Sources. This service is particularly useful to groups of small businessmen associated in a joint venture and to nonprofit sponsors of federally assisted housing programs. The Area Development Department, through its efforts in industrial development financing, has broad contacts with a variety of lending resources including lending institutions within its system, federal agencies, and large institutional lenders.

Procedural Assistance. The Department guides prospective redevelopers lacking substantial previous experience in the urban renewal process through the necessary planning and executing procedures, including applicable statutory and administrative requirements.

Nonprofit Developers. Labor unions, church groups, educational institutions, and community-minded citizens acting as sponsors, borrowers, and mortgagors in the construction or rehabilitation of low and moderate cost housing facilities can receive information from Niagara Mohawk on the nature of programs, applicable administrative procedures, financing requirements, and resources necessary to undertake such a project. The company will arrange meetings among interested parties and local urban renewal officials, appropriate federal officials, and potential financing sources.

Commercial Occupants Displaced by Project. By pooling resources small and medium-

size businessmen's groups often create a redevelopment corporation to act as the redeveloper entity. To such groups Niagara Mohawk offers services similar to those outlined for Nonprofit Developers.

Liaison Between Developer and Government. The company takes the role of an interested third party between developer prospects and local renewal directors by consistently helping to keep things moving smoothly toward successful redevelopment projects and providing assistance wherever possible to help solve problems which threaten to delay the process. These procedures are effective through the selection of a developer and execution of a land disposition contract until construction of all proposed improvements has been completed.

Mr. JAVITS. I call especial attention to this matter because it is another evidence of involvement of the private sector in the war on poverty, and it is something which I wish very much to encourage.

One of the things from which we suffer in this country is a failure to exchange information on this subject as to what is being done in place A so that place B may profit. It is for that reason that I have taken this opportunity to convey information to the Senate on this admirable development.

THE NEED FOR A NEW CONSERVATION CRUSADE TO PRESERVE LAND, WATER, AND AIR

Mr. JAVITS. Mr. President, I call attention to a remarkable experiment taking place at Onondaga Lake, contiguous to the city of Syracuse. This is an experiment to develop and clean up the waters of a lake which has been polluted for a century through carelessness and neglect. The restoration of Onondaga Lake would make it a tremendous asset to an American city.

I mention this work on Onondaga Lake in the spirit of calling the attention of my colleagues to pollution abatement and restoration developments, for they are important to the future of many American cities. Many of our cities have attractions such as Lake Onondaga. They look beautiful but, on close inspection, are dirty and polluted almost beyond use.

Mr. President, I ask unanimous consent that the testimony of Harry Marley, chairman of the legislation committee of the Metropolitan Development Association of Syracuse and Onondaga County before the Subcommittee on Natural Resources of the House Committee on Government Operations be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF HARRY MARLEY, CHAIRMAN, LEGISLATION COMMITTEE, METROPOLITAN DEVELOPMENT ASSOCIATION OF SYRACUSE AND ONONDAGA COUNTY, BEFORE THE SUBCOMMITTEE ON NATIONAL RESOURCES OF THE GOVERNMENT OPERATIONS COMMITTEE OF THE U.S. HOUSE OF REPRESENTATIVES, HOTEL SYRACUSE, SYRACUSE, N.Y., AUGUST 19, 1966

My name is Harry Marley and I am Chairman of the Legislation Committee of the Metropolitan Development Association of Syracuse and Onondaga County. I have been a member of the Board of the Association for the last five years and have participated in its activities. The Association consists of 100 men engaged in business and the professions in the Syracuse Metropolitan area who are concerned with the overall development of Syracuse and its environs. Our Association has concentrated its efforts at points of most severe need, has employed top expert advice where necessary, and has sought not only the best possible plans, but with equal effort, their effectuation. Our Association has been concerned with a new water supply for the Syracuse Metropolitan community and participated in the effort to establish the Onondaga County Metropolitan Water district. We have been concerned with the rebuilding of our city center and participated financially and otherwise in the development of a Downtown Plan which has led to some ten existing or announced developments by the Mutual Life Insurance Company of New York, Sibley, Lindsey & Curr, Allied Department Stores and others in the central city area. One of our prime interests is the reclamation and conservation of Onondaga Lake.

Our Association commends our Congressman James Hanley, our distinguished visiting Congressmen, including Congressman Jones and your staffs for your interest in the polluted waters of America. Syracuse welcomes you and we appreciate this opportunity to tell the story of Onondaga Lake and what we hope can be done about it.

Onondaga Lake has had a long and distinguished history, dating back well before the settlement of the central New York region by the white man. Before the first World War the lake constituted a major amusement area for yachtsmen, oarsmen, and picnickers and led to the founding of one of Syracuse's major industries, the Solvay Process Plant which employs the cooling waters of the lake in the manufacture of soda ash.

Since the first World War, Onondaga Lake, like many other bodies of water near cities, has fallen prey to the concomitant ills of urban growth and technological development. Today the vastly expanded population which lives in Syracuse or in communities whose sewage drains into the lake directly, or into tributaries of the lake, contributes to the wealth of the community, but to the pollution of the lake. The challenge of our generation is to recreate an urban lake which can be enjoyed by this larger population and to make it possible for this population to live without destroying the object of their enjoyment.

Today, Onondaga Lake, although attractive from a distance, is unfit or undesirable for yachting, swimming and, of course, drinking. On occasion the Lake can be obnoxious in odor and its utility for industrial purposes is rapidly declining as its pollution grows. Various phases of the lake have been studied and a number of preliminary surveys on one or another phase of the lake's problems have been published. To our knowledge however, no survey in depth as to the long range future of the lake and what steps should be taken to restore its attractiveness have been accomplished.

Other witnesses will tell you of the series of citizen committees which have been concerned as technicians or as potential consumers of the lake's resources. Our Association was involved in a presentation of a possible plan for the shoreline development in 1963. This proposal was presented at the State Fair that year and indicated a possible development of the lake frontage and environs including Onondaga Creek, a major tributary, flowing into the lake through the City of Syracuse. There were a number of earlier studies made on the possible development of the shoreline of the lake. Our interest in this development remains.

In recent years the East shore of the lake has been developed into a handsome park under the leadership of Mr. Crandall Melvin. The existence of this park and other geographic and topographic features of the lake make possible the International Rowing Regatta which is held on Onondaga Lake each June. This was a major and successful effort and above all indicates that the lake has not been desecrated beyond reclamation. The East Shore Park is enjoyed by thousands of Central New York citizens every year. The West shore is in industrial use and open land yet to be reclaimed for recreation purposes. Our Association feels that this lake represents a singular and major challenge to local, State and National Government officials and to citizens. In its current state it approaches a liability to the health and wellbeing of the people of Central New York. In its potential state, situated in the City of Syracuse at the center of a thriving population of three quarters of a million Americans, it can be a priceless civic, and economic asset.

Recently our County Executive, Mr. John Mulroy, appointed a Citizens Committee whose suggestions were accepted and turned over to a Task force of concerned County Department heads under the Superintendent of Construction, Mr. Edward Baylor. This group is vigorously pursuing ways and means of moving towards the reclamation of Onondaga Lake. We applaud Mr. Baylor and his committee. However, the task of reclaiming this lake is too much for local fiscal resources and probably even beyond the State resources which could be allocated to this single area without Federal aid.

Local capabilities to deal with the manifold programs necessary to reclaim the lake will be greatly helped by the multi-billion dollar New York State Constitution at the polls in November, 1965. Under this program New York State will provide 30% of the funds necessary for sewage treatment and other reclamation activities. It is our understanding that the Federal Government is equally concerned and has proposed in legislation now under consideration by the Congress (including HR 15635) and the companion bill introduced by Senator Muskie, that there be Federal assistance for local antiwater pollution activities. We feel this is a most significant recognition by the National Congress of a great national problem which is typified by our lake.

One phase of the legislation which it is important to consider is the contribution of the Federal Government. The Federal Government will contribute, we hope, at least as much as New York State, namely 30%. This will still leave the basic responsibility, amounting to 40% of the cost, as a local responsibility. Federal assistance must be substantial enough to permit the job to be accomplished and by this we mean at least equal the State grant.

Our Association is also particularly concerned with what will happen to the shoreline of the Onondaga Lake in neighboring towns above the shore if reclamation is successful. It will be a tragedy, if millions of public dollars are successful in cleaning up the lake, only to permit garish hamburger stands to adorn the west shore. We believe that land use controls to insure profitable public and private development of the miles of land surrounding the lake are necessary if the potential of the anti-pollution effort is to be realized. For this reason, we propose a multi-purpose program including planning, land use, controls, public open space, new town development on a cooperative basis between local, State, and Federal Governments with maximum opportunity for appropriate private development along the lake and elsewhere. This requires a coordinated public-private-Federal-State-local multi function program.

Our proposal is not to make the shore and neighboring land development of Onondaga Lake exclusively a park, a high cost or a low cost residential development, a site for industry, or any other single use; rather we

believe the future attraction of the lake will depend on the best development of different planned uses. We believe for example that industry and houses can be good and mutually advantageous neighbors. We believe that the bold silhouette of the Solvay Plant and the fires of the Crucible Steel mill can be a thrilling sight to the yachtsman on the waters of the lake at night. We believe that residents on the hills to the west of the lake can enjoy the lake without having access to the waterfront itself. The lakeshore can supply sites for marinas, picnic area, motels and swimming areas.

Our request to you therefore Mr. Chairman is this: Please consider that our lake, whose reclamation we so wholeheartedly desire, can be reclaimed with the help of the Federal Government. If it is reclaimed, we will not only have a fine body of water but, if other existing and proposed local, Federal, and State programs can assist local, public and private efforts, our citizens and all New Yorkers and visitors can enjoy the many miles which surround the lake. The total project can become a pride to this part of the State, to New York, and to the ability of the American people to live in the magnificent land which they inherited without ruining it.

Thank you very much.

THE WAR AGAINST THE POVERTY WAR

Mr. CLARK. Mr. President, the other body is presently engaged in debating the fate of the war against poverty. I am hoping against hope that some meaningful and useful legislation will result from that debate.

Yesterday, a splendid lead editorial entitled "The War Against the Poverty War," was published in the Washington Post.

This editorial points out the havoc that will be wrought to the lives of millions and millions of Americans if the House does what some columnists and analysts predict it will do—either kill the war against poverty completely, or so cripple it that it cannot be continued in any meaningful way for the future. I would hope that all Members of the House of Representatives, and, indeed, all Members of the Senate would read this editorial.

I ask unanimous consent to have the editorial printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE WAR AGAINST THE POVERTY WAR

Only because there are so many more rich people than poor people in this country, and because the poor are clustered in small pockets of abject poverty, is it possible for so many members of the House of Representatives to mount so cruel and reckless an attack on the war against poverty. If their assault prevails in the voting that begins today, they may find some comfort in the damage this will do to President Johnson's Great Society. But it will be a cold kind of comfort. For, in the words of OEO Director Sargent Shriver, they will be engaging in both a "delusion . . . and a fraud."

It will be a cruel delusion for the poverty-stricken who had come to believe that help in increasing quantities was on the way. And it will be a highly dangerous fraud. For there is at home, as Adlai Stevenson once said of the less developed world, a "revolution of rising expectations" which will almost certainly be translated into wider violence and greater disorder if reasonable expectations are denied.

The Administration is seeking $2 billion in poverty funds, an increase from the $1.6 billion it received last year for such projects as the Job Corps, Community Action Programs, and Head Start. The Senate has approved this, and a bit more. But a motley coalition of Republicans and Southern Democrats in the House is trying to slash this year's appropriation down to $1.2 billion, a figure that OEO believes would cripple its activities—cripple them in real terms and in terms of the psychological impact such a cut would have on the hopes and aspirations of the poor.

There was, at an earlier stage, some rational quality about the House attack on OEO, some sense that the program wasn't working well and ought to be overhauled or even scrapped, with its projects turned over to regular Government agencies.

A logical case can be made for conducting the poverty war differently; the art is not all that far advanced. But only three, of some 700 witnesses who have appeared before Senate and House hearings, were prepared to advocate dismantling of OEO. The vast majority recommended more funds, not less. None suggested the sort of senseless hacking which now threatens the poverty bill. Only the worst sort of partisan politics, on the part of many Republicans, and sheer indifference on the part of many Southern Democrats can explain the kind of irrationality which led the House to exempt OEO from Federal pay increases and which has left much of the poverty war without funds since Oct. 23 for failure to pass normally routine appropriations to maintain present programs until the large appropriation question is resolved.

By Nov. 23, some 35 Community Action Programs will be in much the same shape as the project in Jersey City is in right now—completely out of money, with workers on a volunteer basis, and forced to borrow or beg to continue aid to some 10,000 families.

A belated move was made yesterday to appropriate money for the OEO payroll through Nov. 9, by tacking this on as a rider to the District Appropriation bill. But this is only a brief stop-gap. The point, very simply, is whether there is to be an effective poverty program, or not. A cut to the $1.2 billion level would not be effective. In the District, for instance, it would mean $20 million in poverty funds, compared with the $35.8 million which would be provided under the President's request for this fiscal year, and almost $30 million last year. This is not just robbing the poor of help. It is robbing them of hope. Those who conspire to do so may find political comfort. But they will deserve the country's condemnation and contempt.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 1872. An act to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes;

S. 2168. An act for the relief of Dr. Pedro Pina y Gil;

H.R. 2757. An act for the relief of Comdr. Albert G. Berry, Jr.;

H.R. 4538. An act for the relief of Dr. John E. Yannakakis;

H.R. 6692. An act declaring a portion of Bayou Lafourche, La., a nonnavigable waterway of the United States;

H.R. 13048. An act to make certain technical amendments to the Library Services and Construction Act;

H.R. 13165. An act to extend the period during which Secret Service protection may be furnished to a widow and minor children of a former President; and

S.J. Res. 33. Joint resolution to establish a National Commission on Product Safety.

SAFETY REGULATIONS FOR TRANSPORTATION OF NATURAL GAS

The Senate resumed the consideration of the bill (S. 1166) to authorize the Secretary of Transportation to prescribe safety regulations for the transportation of natural gas by pipeline, and for other purposes.

Mr. MAGNUSON. Mr. President, I want to address myself very briefly to the bill as reported by the Commerce Committee.

Mr. President, with the passage of the Department of Transportation Act, Federal safety regulation of air, water, and land transportation—including pipelines other than natural gas and water—has been centralized in one agency to permit the coordinated and comprehensive improvement of safety in virtually all transportation modes. The only transportation area still excepted from Federal safety regulation is the movement of natural gas, other flammable gases and nonflammable hazardous gases by pipeline.

At our request, the Federal Power Commission in 1965 made a study of the safety of interstate natural gas pipelines. The FPC questioned jurisdictional natural gas companies which accounted for approximately 150,000 of the 224,000 miles of transmission pipe in the country. The companies reported a total of 64 deaths and 225 serious injuries from January 1950 to August 1965 occurring from operational failures on interstate transmission pipelines. The companies also reported a total of 1,268 operational failures during that period, or approximately one every 5 days, somewhere on the interstate pipeline network. A roughly equivalent number of failures during testing were also reported. Most of these failures did not cause death or injury, as most transmission lines are not laid in urban areas. In a majority of cases, the gas did not ignite. Most deaths or injuries are caused when the escaping gas ignites, which occurs when there is human activity in the vicinity to produce some sort of an igniting spark. When the failure is in the vicinity of houses and when it does ignite—a more likely occurrence in populated areas—those in the vicinity are exposed to great danger. For example, the rupture and explosion at Natchitoches, La., in March 1965 gutted a 13-acre area, killed 17 people, burned five houses, and melted cars and even rocks.

Distribution systems have been in existence for many years and much of the original pipe is still in use after 30 or 40 years. In many cases it is not the age of the pipe itself that creates the hazard, but the joints and related connections. There is no readily available information concerning past accidents in distribution systems as there is with transmission pipelines. However, during the first few months of 1967 alone several major accidents occurred in distribution systems.

Most segments of the natural gas in-

dustry can take great pride in the substantial technological advances which have made natural gas a reliable and safe fuel. The development of durable large-diameter steel pipe of enormous strength, capable of withstanding high pressures, together with other dynamic new technologies, permits the extension of gas transmission lines from production fields to markets hundreds of miles distant.

The natural gas industry and its suppliers are spending millions of dollars in research directed toward safety improvements in their lines. Again, most segments of the industry have been vigorously concerned with the safe design and operation of pipelines and have accorded safety the highest priority.

There is, within the pipeline industry, informal nonenforceable guidance in the form of an industry code, the United States of America Standards Institute B31.8 code. The dedicated members of the code committee have greatly contributed to the cause of gas pipeline safety. But this code is considerably less than satisfactory, formulated as it has been under procedures by which any substantial segment of the industry, or even one company, can prevent the adoption of a particular safety standard.

Most States have found it necessary and desirable to adopt safety regulations for gas pipelines. Yet, a majority of the States which regulate natural gas pipelines use the USASI Code as a basis because of staff and resources inadequate to develop standards themselves. Many of those States have either added independent safety standards or strengthened some provisions in the industry code, but this has not served to produce uniform, adequate safety standards.

In addition to those States which have not adopted regulations, the regulations of some States do not apply to interstate lines. Most State safety regulations are sharply limited in their application to pipe in existence when the regulations are adopted.

The Federal Power Commission has the authority to investigate pipeline accidents, to gather and analyze statistics on the causes of pipeline accidents, and to report its findings to Congress and the public. While it can impose safety conditions in the certificates it awards, the Commission cannot exercise continuing regulation over all aspects of safe pipeline operation. And, while the Department of Transportation Act has transferred broad transportation safety regulatory powers, including those related to pipelines to the Department, gas pipelines are not within the scope of those powers.

It is estimated that by 1980 gas transmission lines will have increased to 301,000 miles and that distribution lines will have increased to 857,400 miles. As population density increases in many areas of the country, and as the mileage of gaslines increases to meet growing demands, the absence of adequate and effective safety regulation of gas pipelines stands as an unjustifiable exception to the national effort to insure that all modes of transportation will function in a manner which adequately protects the public safety.

FEDERAL SAFETY STANDARDS

The basic tool created by this bill to improve gas pipeline safety is the authority given the Secretary of Transportation in section 3(a) to set minimum Federal safety standards to be observed by all persons engaged in the transportation of gas. This he must do no later than 24 months after enactment; this interval should be sufficient for the Secretary to establish standards based on the best technical information after having considered the views of all sectors of the population which are affected. The standards may extend to all aspects of pipeline facilities, specifically to their design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance.

TECHNICAL STANDARDS COMMITTEE

The hearings on this bill contain a substantial amount of testimony by industry spokesmen as to the highly complicated and technical nature of developing and applying safety standards to gas pipelines. The committee recognizes that the process is not a simple one from a technological standpoint. For this reason, the bill creates a Technical Pipeline Safety Standards Committee from which the Secretary must obtain counsel of a technical nature before he formally proposes establishment of a safety standard.

FEDERAL-STATE RELATIONSHIP

The committee has sought to give the States a primary role in enforcing local pipeline safety standards.

Section 5(a) envisions a series of agreements between the Secretary and the States, substituting State for Federal enforcement for gas distribution and local transmission lines.

To obtain such substitution, the State must adopt the Federal standards as its own; impose the same sanctions as would the Federal Government—including requiring records, reports, inspections, and the filing of plans of inspection—implement an effective compliance program; and agree to cooperate in Federal monitoring of its compliance program.

Mr. President, I ask unanimous consent that an excerpt from the report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MAGNUSON. Few States now have laws in this area; and compliance is, of course, the key to achieving the objectives we seek in the bill.

Mr. President, I also ask unanimous consent to have printed in the RECORD an address by Carl E. Bagge, Commissioner of the Federal Power Commission, before the Third Annual Pipeline Operation and Maintenance Institute, which will be given today, November 9, 1967, in Liberal, Kans.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MAGNUSON. Mr. President, I understand that there will be two or three amendments to be proposed. The Senator from Ohio [Mr. LAUSCHE] has an amendment which is now pending. I am sure the Senate will want to hear the amendment which he proposes and his argument in support of his amendment.

Mr. President, this bill represents a great deal of work by members of the Commerce Committee. Most of the portions of the bill were agreed to by most of the members of the committee, and I do not think that any member of the committee opposes the bill, as such, in general terms.

There were two or three sections in the bill which posed difficult technological problems. One section that would fall into this category is that section of the bill dealing with gathering lines. We attempted to cover these lines by requiring that the Secretary report to us within 1 year with his recommendations as to the proper treatment of these lines. We felt he should first establish the permanent regulations on the main pipelines, since that is where pressures are high and great danger may exist, and on the distribution lines, because these are located in heavily populated areas.

The gathering of gas is not entirely in heavily populated areas. Some lines go through populated areas, but I understand that the great majority of them are not in densely populated areas. The distinguished Senator from Oklahoma [Mr. MONRONEY] made a factual presentation to the committee on this point.

We attempted to deal specially with that situation because we wanted to make sure that the Secretary first work out his permanent regulations for the main pipelines. I also feel we have handled the distribution problem very well in the bill.

Personally, I wanted to deal more strongly with gathering lines in this legislation, but after much discussion the committee members decided that it would be more practical and better to have the Secretary report back to us with his recommendations.

I understand that the amendment introduced by the Senator from Ohio would change that section of the bill dealing with gathering lines. When I have heard his presentation, I expect to reply, and I think that my statement will be similar to the argument I made in committee.

However, I wish to reemphasize that there has been no division in committee as to the main objectives of the bill. There were technical complications involved inasmuch as this is a highly complex problem, but we tried to work the matter out as best we could. The bill is long overdue.

I must say that the industry has done a great deal of research in this field. The use of gas is growing by leaps and bounds. I have no doubt that any major pipeline that is being laid today would be much safer than those laid years ago. I am sure the industry would admit that many of the lines now in the ground, some of which are 30 to 40 years old, were not built for many of the pressures that now exist.

The distribution people understand the problem that exists in highly populated areas. We did suggest that compliance in this case be left to the States, when they institute a compliance program because they are right there and they can watch what is happening. Most

cities, urban areas, and metropolitan areas do have some regulations now. There are many local codes on safety in connection with the matter of distribution. But these have not proven sufficient. We are hopeful that we are going to make a real beginning now with the bill that is before the Senate to insure pipeline safety for the millions of users of gas in this country.

EXHIBIT 1

PURPOSE OF THE BILL

The purpose of this bill, as amended, is to authorize the Secretary of Transportation to regulate the safety of operation of pipeline facilities which transport natural and other flammable gases and nonflammable gases.

BACKGROUND AND NEED

With the passage of the Department of Transportation Act, Federal safety regulation of air, water and land transportation (including pipelines other than natural gas and water) has been centralized in one agency to permit the coordinated and comprehensive improvement of safety in virtually all transportation modes. The only transportation area still excepted from Federal safety regulation is the movement of natural gas, other flammable gases and nonflammable hazardous gases by pipeline.

There are now over 800,000 miles of gas pipeline in the United States including approximately 63,000 miles of gathering lines, 224,000 miles of transmission lines, and 536,000 miles of distribution lines. These lines range in diameter from less than 1 inch to 42 inches with 48-inch lines under consideration. They vary in condition from old, unprotected lines to new, well-protected pipelines. They suffer in function from low-pressure distribution lines operated at one-fourth pounds per square inches to high-pressure transmission lines operated at 1,300 pounds per square inch, which is equivalent to a force of over 93 tons pushing against the pipeline wall over every square foot. Thus, any failure of a pipe may cause large amounts of gas to be released to the atmosphere in a relatively short period of time. Any gas thus escaping which is mixed with air may ignite; the area affected can be very large depending on such variables as the gas pressure, size of the pipe and the size of the break. When it burns, the gas can reach temperatures up to 2,500° F.

In addition to such factors as the diameter and pressure of the pipe, population density has an important bearing on the potential dangers associated with a pipeline failure. As our cities and towns expand, the problem of population density near transmission and distribution lines grows more acute, since much of this pipe was laid to specifications designed for unpopulated areas. The danger extent of injury or death is patently greater in the more densely populated areas.

Still another factor contributing to the risk of pipeline failure and the danger of death or injury is the age of some of the pipeline throughout the country. This is not because age in itself causes deterioration of the pipe, but because older pipe was not designed, constructed, or protected as well from the effects of corrosion and other deterioration as well as is newer pipe.

At the request of Chairman Magnuson, the Federal Power Commission in 1965 made a study of the safety of interstate natural gas pipelines. The FPC questioned jurisdictional natural gas companies which accounted for approximately 150,000 of the 224,000 miles of transmission pipe in the country. The companies reported a total of 64 deaths and 225 serious injuries from January 1950 to August 1965 occurring from operational failures on interstate transmission pipelines. The companies also reported a total of 1,268 operational failures during that period, or approximately one every 5 days, somewhere on the interstate pipeline network. A roughly equivalent number of failures during testing were also reported. Most of these failures did not cause death or injury, as most transmission lines are not laid in urban areas. In a majority of cases, the gas did not ignite. Most deaths or injuries are caused when the escaping gas ignites, which occurs when there is human activity in the vicinity to produce some sort of an igniting spark. When the failure is in the vicinity of houses and when it does ignite (a more likely occurrence in populated areas), those in the vicinity are exposed to great danger. For example, the rupture and explosion at Natchitoches, La., in March 1965 gutted a 13-acre area; killed 17 people; burned five houses, and melted cars and even rocks.

Distribution systems have been in existence for many years and much of the original pipe is still in use after 30 or 40 years. In many cases it is not the age of the pipe itself that creates the hazard, but the joints and related connections. There is no readily available information concerning past accidents in distribution systems as there is with transmission pipelines. However. during the first few months of 1967 alone several major accidents occurred in distribution systems. A survey jointly undertaken by the Department of Transportation and the National Association of Regulatory Utilities Commissioners, an organization of Federal and State commissions, revealed substantial gaps in the regulation of distribution systems. These systems distribute gas to 38 million consumers located in virtually every city and town throughout the Nation.

Most segments of the natural gas industry can take great pride in the substantial technological advances which have made natural gas a reliable and safe fuel. The development of durable large-diameter steel pipe of enormous strength, capable of withstanding high pressures, together with other dynamic new technologies, permits the extension of gas transmission lines from production fields to markets hundreds of miles distant.

The natural gas industry and its suppliers are spending millions of dollars in research directed toward safety improvements in their lines. Again, most segments of the industry have been vigorously concerned with the safe design and operation of pipelines and have accorded safety the highest priority.

As Secretary of Transportation Boyd has said, the proposed legislation "was not premised on the safety record of the gas industry—which is good, but on the coverage and enforcement gaps in existing regulations." President Johnson has called the natural gas industry "among the most safety conscious in the Nation." Even with the passage of minimum Federal safety standards for pipelines, the committee anticipates that the initiative, innovation, and upgrading of the safety of pipelines will remain, as it has always been, with the industry itself.

There is, within the pipeline industry, informal nonenforceable guidance in the form of an industry code, the United States of America Standards Institute B31.8 code. The dedicated members of the code committee have greatly contributed to the cause of gas pipeline safety. But this code is considerably less than satisfactory, formulated as it has been under procedures by which any substantial segment of the industry, or even one company, can prevent the adoption of a particular safety standard. Secretary of Transportation Boyd submitted to the committee the following summary analysis of the code's deficiencies:

"APPENDIX TO STATEMENT OF ALAN S. BOYD, SECRETARY OF TRANSPORTATION

"Evaluation of USA Standard Code for pressure piping 'gas transmission and distribution piping systems' (B31.8 as revised on about April 14, 1967) as a basis for safety regulations

"The major safety code in use by the natural gas pipeline industry at the present time is the self-imposed code, USASI B31.8. (All future reference in this appendix to USASI B31.8 code will be as 'the code.') The code, as written, is technically sound. However, it is not mandatory, it does not apply to pipeline in the ground, it is not adopted uniformly by the States, and has no provision for enforcement.

"The code does not require a pressure test for upgrading pipeline systems.

"The code mentions use of varying types of construction materials to be used in cold climates, but offers no positive specifications to insure that materials with special properties are used.

"The code does not define welding inspection procedures. Here, the adequacy of inspection methods vary.

"The code requires high pressure pipe to be buried at least 24 inches below ground but this requirement is dropped for low pressure lines if 'external damage to the pipe will not be likely to result.'

"The code does not require the marking of underground lines.

"The code requires only 2 inches clearance between pipelines and other underground objects. This is too little clearance for adequate maintenance and for protection from possible mechanical damage or corrosion due to proximity of the pipe to the other structure.

"The code does not specify uniform construction specifications for new pipeline.

"The code suggests inspection during various stages of high pressure pipeline construction: Similar inspections are not required for low pressure lines.

"The code allows gas to be used as a pressure testing substance. However, a length of time for all types of testing is not prescribed. Individual companies use varied procedures in the length of time for these tests. Also, the code does not require retesting a pipeline failure discovered during the initial test.

"While the code requires that companies have a plan for pipeline maintenance, it does not specify the extent, thoroughness, or any specific points of such a plan.

"The code offers no standards for abandoning transmission lines when the extent of leaks and other failures render the line unfeasible to repair or replacement.

"The code establishes stress requirements for pipelines according to location, whether it be rural, urban, etc. But it does not provide a method for changing these requirements as population density changes. Consequently, we now have suburban homes, office buildings and shopping centers in close proximity to pipeline originally designed to carry a greater stress because it was located in remote rural areas."

A former chairman of the code committee, Frederick A. Hough, acknowledged the limitations of the code and the code committee's procedures, in a series of articles published at the time the present code was substantially formulated in 1955:

"Many superior practices, which under some conditions at least are highly desirable, are not prescribed in the code.

"* * * [S]tandard specification committees tend to be dominated by the manufacturers and the tendency is for tolerances prescribed in a specification to be broad enough as to reduce to a minimum the rejects which a manufacturer will have. This very often results in the tolerances being so broad that the user cannot be sure that the material or equipment purchased under the specification is going to be suitable for his specific use * * *. For example, * * * when conditions exist which demand good low-temperature impact properties [the user] cannot look to the standard specifications for protection."

However, industry witnesses vigorously contested the validity of this analysis. Moreover, shortcomings of the B31.8 Code are mitigated in many instances by the action

of individual companies in establishing higher and more comprehensive safety standards for their own operations than the code provides. For example, it is standard practice among most pipeline companies to coat and cathodically protect (protection against corrosion by means of an impression of an electric current on the pipeline) all new pipe, although the code does not require it.

Nevertheless, most States have found it necessary and desirable to adopt safety regulations for gas pipelines. Yet, a majority of the States which regulate natural gas pipelines use the USASI Code as a basis because of staff and resources inadequate to develop standards themselves. Many of those States have either added independent safety standards or strengthened some provisions in the industry code, but this has not served to produce uniform, adequate safety standards.

In addition to those States which have not adopted regulations, the regulations of some States do not apply to interstate lines. Most State safety regulations are sharply limited in their application to pipe in existence when the regulations are adopted.

The Federal Power Commission has the authority to investigate pipeline accidents, to gather and analyze statistics on the causes of pipeline accidents, and to report its findings to the Congress and the public. While it can impose safety standards in the certificates it awards, the Commission cannot exercise continuing regulation over all aspects of safe pipeline operation. And, while the Department of Transportation Act has transferred broad transportation safety regulatory powers, including those related to pipelines to the Department, gas pipelines are not within the scope of those powers.

It is estimated that by 1980 gas transmission lines will have increased to 301,000 miles and that distribution lines will have increased to 857,400 miles. As population density increases in many areas of the country, and as the mileage of gas lines increases to meet growing demands, the absence of adequate and effective safety regulation of gas pipelines stands as an unjustifiable exception to the national effort to insure that all modes of transportation will function in a manner which adequately protects the public safety.

HISTORY OF PIPELINE SAFETY LEGISLATION

In 1951 Congressman Heselton of Massachusetts introduced H.R. 88, 82d Congress, assigning to the Federal Power Commission safety responsibility for interstate transmission pipelines under its jurisdiction. The FPC since 1953 has made such a proposal part of its legislative program. On June 10, 1954, a hearing was held before the House Committee on Interstate and Foreign Commerce on such a bill, H.R. 134, 83d Congress, at which Congressman Heselton, the author of the bill testified:

"Certain representatives of the industry came to see me and told me very frankly and honestly that they felt there was a need for an improved and revised code and asked whether I would be willing to defer any action on the legislation pending an effort on their part to develop such a code. I told them I would be very glad to do so * * *.

"Therefore, I am not interested in having the bill enacted until that action is completed."

No action was taken on the bill and a substantially improved B31.8 Code was subsequently promulgated in 1955. Minor amendments have been made in the code in 1958, 1961, 1963, and 1967. In 1963, the Report on the Movement of Dangerous Cargoes, and Interagency Study coordinated by the Office of the Under Secretary of Commerce for Transportation, recommended:

"The Federal Power Commission should be given specific statutory authority and responsibility for safety regulation of gas pipelines operating in interstate or foreign commerce."

On March 17, 1965, Chairman Magnuson introduced S. 1553, which would have assigned such additional safety responsibility to the FPC. In 1965, following an interstate pipeline failure which claimed 17 lives in Natchitoches, La., Chairman Magnuson directed the FPC to make the study of the safety of interstate natural gas pipelines referred to above. The committee printed this study on April 19, 1966. Hearings were held on S. 1553 on August 29 and 31, 1966.

With the creation of the new Department of Transportation, consideration was given to consolidating gas pipeline safety and oil pipeline safety responsibility in that agency. At the hearings on S. 1553 Chairman Lee C. White of the FPC expressed the thought that it might be advisable to consider assigning such a responsibility to the new Department, which would have other safety responsibilities, rather than to the FPC.

On February 16, 1967, President Lyndon B. Johnson, in his consumer message, stated:

"With the creation of the Department of Transportation one agency now has responsibility for Federal safety regulations of air, water and land transportation, and oil pipelines. It is time to complete this comprehensive system of safety by giving the Secretary of Transportation authority to prescribe minimum safety standards for the movement of natural gas by pipeline.

"I recommend the Natural Gas Pipeline Safety Act of 1967."

On March 3, 1967, Chairman Magnuson introduced S. 1166. The committee held 5 days of hearings and voted unanimously to report the committee bill in the form of an amendment in the nature of a substitute to S. 1166.

SCOPE OF THE BILL

The scope of the bill is established by the meanings given to certain operative words and phrases contained in section 2, which describe the applicability and extent of the safety regulatory power conferred upon the Secretary of Transportation. "Gas" includes natural gas, other flammable gas, and nonflammable hazardous gas. Federal safety standards will be applicable to the "transportation of gas" which means transmission or distribution of gas by pipeline, or gas storage, in or affecting interstate or foreign commerce. Thus, jurisdiction will extend to all transmission and distribution lines in or affecting interstate commerce. Specifically, the standards will apply to "pipeline facilities" which include new and existing pipe, rights-of-way, equipment, and buildings used in gas transportation or treatment. For the purposes of judicial review and enforcement of the provisions of the bill, the term "person" is intended to cover not only individuals, but all forms of combinations of individuals.

FEDERAL SAFETY STANDARDS

The basic tool created by this bill to improve gas pipeline safety is the authority given the Secretary of Transportation in section 3(a) to set minimum Federal safety standards to be observed by all persons engaged in the transportation of gas. This he must do no later than 24 months after enactment; this interval should be sufficient for the Secretary to establish standards based on the best technical information after having considered the views of all sectors of the population which are affected. The standards may extend to all aspects of pipeline facilities, specifically to their design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance. The Secretary may not, however, prescribe the location or routing of any pipeline facility, although effective standards will necessarily take into account geology and above-surface conditions and structures.

The committee appreciates the fear of the industry that might be required to bear the expense of removing large quantities of pipeline laid before a standard becomes effective for no other reason than that it does not comply with the Federal standard, irrespective of whether the pipe is sound and safe. For this reason, the committee has provided that standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standard is adopted, unless the Secretary finds that a potentially hazardous situation exists, in which case, he may by order require compliance with any such standard. This provision requires the Secretary to make a finding of potential hazard before applying certain standards to existing pipe. When such finding and order has been issued, the standards can be made immediately applicable to remedy the potentially hazardous situation (subject to judicial review of the order) since all of the requirements of the rulemaking will have previously been satisfied.

Through these procedures, the legitimate interests of the industry can be satisfied, while the Secretary retains the overriding authority to take necessary action when the demands of safety require. As this subsection has been worked out, any Federal standard relating to inspection and testing (other than initial inspection and testing), extension, operation, replacement, and maintenance may be applied to existing pipe, as well as new pipe.

Further, in establishing standards the Secretary must observe certain guideposts. The standards must be practicable and designed to meet the need for pipeline safety. The Secretary is to consider relevant available data, the appropriateness of a standard for the particular type of transportation; the reasonableness of a standard; and the extent to which it will contribute to safety. In determining reasonableness, safety, which is the purpose of this act, shall be the overriding consideration. Any standard will ordinarily become effective 30 days after issuance. However, the Secretary may, for good cause, make a standard effective on an earlier or later date.

INTERIM STANDARDS

The committee believes that the need for meaningful pipeline safety regulation is serious enough that no vacuum should be permitted to exist during the period in which the Secretary is developing standards. Therefore he is required by section 3(a) to establish interim Federal safety standards within 3 months after enactment. As noted elsewhere in this report, not all States have safety codes or regulations applying to all phases of pipeline operation. To fill these gaps quickly, the Secretary shall establish as the Federal mandatory interim standards, existing State standards. Where all or part of the distribution and transmission operations in any State are not covered by State standards, the Secretary must develop and establish interim standards which will consist of the standards common to a majority of existing State standards. To further guard against gaps in the standards, any interim standard will remain in effect until specifically amended, or revoked, even if this is not done until more than 24 months after enactment of this bill.

PROCEDURES FOR THE ESTABLISHMENT OF STANDARDS

In establishing standards, the Secretary is required to comply with the rulemaking procedures of the Administrative Procedure Act. The Secretary must, of course, give interested persons appropriate notice and opportunity

to comment on proposed standards. However, the committee does not intend that the Secretary be required to comply with sections 7 and 8 of the APA. While the Secretary would ordinarily have the discretion to prescribe oral presentations in establishing, amending, revoking, or waiving compliance with a standard, in order to afford the interested parties an opportunity to directly present relevant testimony, including engineering data, this subsection requires the Secretary to entertain oral presentations, permitting arguments to be made orally and witnesses presented. However, inasmuch as we require the Secretary to establish interim Federal standards based on existing State standards within 3 months of enactment, it is neither necessary nor desirable to require oral presentation as to establishment of those standards.

Anyone who is or will be adversely affected or aggrieved by the establishment of a standard, or other order issued under the act, may obtain judicial review in the court of appeals in accordance with section 10 of the Administrative Procedure Act. The petitioner has 60 days from the issuance of the order in which to seek such review. "Adversely affected" is defined by section 2 to include potential exposure to personal injury or property damage. The well-established criteria under the Administrative Procedure Act for judicial review of agency action (as well as the remedies available to the court) are intended by the committee to be applicable to the establishment of gas pipeline safety standards.

WAIVERS

From time to time, it may be desirable to waive compliance with a particular Federal standard in a specific situation. By section 3(e), the Secretary is given the flexibility to grant a waiver, when it is not inconsistent with the purposes of the act and upon notice and opportunity for hearing. Elsewhere in this report, there is described a plan of agreements between the Secretary and the several States, wherein the States may be exempt from Federal standards for local lines on condition that they adopt and enforce State standards of comparable scope and stringency (section 5(a)). Where such an agreement is in effect, a State will have the same waiver authority as the Secretary as to facilities governed by such agreement. However, State action is limited to the extent that the Secretary must be given at least 60 days advance notice and may stay the proposed grant of a waiver by a State, afford the State a hearing on the matter, and then determine finally whether to permit the waiver to become effective.

TECHNICAL STANDARDS COMMITTEE

The hearings on this bill contain a substantial amount of testimony by industry spokesmen as to the highly complicated and technical nature of developing and applying safety standards to gas pipelines. The committee recognizes that the process is not a simple one from a technological standpoint. For this reason, the bill creates a Technical Pipeline Safety Standards Committee from which the Secretary must obtain counsel of a technical nature before he formally proposes establishment of a safety standard. The committee assumes that the Secretary, in naming the committee, will draw from the ranks of registered professional engineers.

The committee will be appointed by the Secretary after consultation with technical agencies and consist of 15 members trained and experienced in a field of engineering applied in gas transportation. Five members will be representatives of the gas industry; five will be selected from Federal and State government bodies (at least one of whom must be a State commissioner); and five will be from the ranks of the public. The Secretary is required to give the committee reasonable opportunity to report on the technical feasibility, reasonableness, and practicability of each proposed standard (except, of course, in the case of interim standards). The Secretary must publish the report, including minority views, and, while he is not bound by the report of the technical committee, the Secretary must publish his reasons if he rejects the majority views. The requirement for publishing the technical committee report on a given proposed standard does not require that all proceedings of the committee be published; however, all proceedings must be recorded and available for public inspection.

COOPERATION WITH OTHER AGENCIES

The Secretary is authorized to advise, assist, and cooperate with other Federal departments and agencies and State and other interested public and private agencies and persons, in the planning and development of (1) Federal safety standards, and (2) methods for inspecting and testing to determine compliance with Federal safety standards (sec. 13(c)).

In addition to public agencies with experience in the gas safety field, the committee expects that the Secretary will take full advantage of the extensive expertise represented by members of technical societies and private code bodies which serve an important purpose and should continue to function in the private sector of gas pipeline safety.

FEDERAL-STATE RELATIONSHIP

The relationship of Federal-State regulatory authority created by this bill differs as between local pipelines and interstate transmission lines. In the latter area, the lines of a single transmission company may traverse a number of States and uniformity of regulation is a desirable objective. For this reason, section 3(a) provides for a Federal preemption in the case of interstate transmission lines.

On the other hand, in the case of local lines exempted from the economic regulatory authority of the Federal Power Commission under the Natural Gas Act, States may establish additional or more stringent standards, provided they are not inconsistent with the Federal minimum standards. The committee has provided for this different treatment because each State authority is uniquely equipped to know best the special aspects of local pipeline safety which are particularly applicable to that community.

This facet of greater State participation in the development of procedures under a Federal statute relates principally to the establishment of standards. This bill also gives the States an important role in enforcement, as well. Because of preemption, the safety standards for interstate transmission lines will always be Federal standards, and enforcement will be a Federal responsibility. Consistent, however, with the role this bill gives the States in amplifying distribution standards, the committee has sought to give the States a primary role in enforcing local pipelines safety standards.

Section 5(a) envisions a series of agreements between the Secretary and the States, substituting State for Federal enforcement for gas distribution and local transmission lines.

To obtain such substitution, the State must adopt the Federal standards as its own; impose the same sanctions as would the Federal Government (including requiring records, reports, inspections, and the filing of plans of inspection); implement an effective compliance program; and agree to cooperate in Federal monitoring of its compliance program. Under these agreements, in effect, State law and State enforcement responsibility replace the Federal law for local facilities because the State has undertaken to do the job conscientiously and effectively. Thus, this subsection creates a mechanism whereby the States may participate to the utmost in establishing and enforcing gas pipeline safety standards for distribution lines and local transmission lines. The agreement between the Secretary and the State contemplates, among other things, that the Federal standards adopted by the State will have the force of law in that State.

It is not intended by the committee that this exemption program (or, indeed, the modified agreement of sec. 5(b) be available only as to the revised standards due no later than 2 years after enactment. If the State can give the Secretary the assurances required to conclude an agreement, there is no reason why State enforcement cannot replace Federal enforcement during the period of interim standards.

Even in cases in which a State may not be able to give all of the assurances required by section 5(a) for an exemption agreement, it can still play a significant role in local pipeline safety. By agreement, the Secretary may have the State perform a number of functions on his behalf including establishment of requirements for record maintenance, reporting, and inspection; approval of plans of maintenance and inspection and compliance programs. Under this type of agreement, the standards in force would be Federal standards subject to Federal enforcement and the State would be expected to furnish prompt notification of any violations uncovered through its inspection and compliance programs.

The bill confers on the Secretary the authority to use appropriated funds to pay up to one-half of a State's expenses for developing and enforcing safety standards pursuant to agreements authorized by section 5. The State must make timely application for such assistance and demonstrate that it has made provision for paying the remainder of its costs.

To further enhance the role of State regulatory bodies in the gas pipeline safety program, an annual payment of $20,000 to the National Association of Regulatory Utility Commissioners (NARUC) is authorized subject to administrative and disbursement provisions established by the Secretary. The NARUC is a quasi-governmental nonprofit organization founded in 1889. It has within its membership the Civil Aeronautics Board, the Department of Transportation, the Federal Communications Commission, the Federal Power Commission, the Interstate Commerce Commission, the Securities and Exchange Commission, 55 State commissions, and the District of Columbia, Puerto Rico, and Virgin Islands commissions.

COMPLIANCE

Any of three different kinds of activities on the part of anyone engaged in transporting gas within the meaning of the act will constitute a violation of the act: any transportation of gas that does not comply with an applicable standard; failure to file a plan of inspection and maintenance (sec. 11) or failure to comply with such plan; and failure to allow access to and copying of records or entry for the purpose of inspection (sec. 12).

The committee added a provision, section 8(b), expressly providing that "nothing in this Act shall affect the common law or statutory tort liability of any person." This language is designed to assure that compliance with standards issued under the act, per se, does not create a statutory inspired presumption of due care in tort liability suits.

CIVIL PENALTIES

Any violation of the act or regulations issued under the act will subject a person to civil penalties which the Secretary may assess, of up to $1,000 for each violation for each day it persists not to exceed a total of $400,000 for a related series of violations. The severity of the penalty which a person may be required to pay may be compromised by the Secretary; that is, adjusted, based upon several factors including the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after notification of the violation.

INJUNCTION

Civil penalties alone, in the judgment of the committee, would fall far short of insuring compliance. Such penalties might amount, in many cases, to no more than the cost of doing business. For this reason, and because prompt action may be needed in some cases to prevent imminent personal injury and property damage, section 10 authorizes the seeking of injunctions to prevent violations. The committee recognizes that the Secretary will want to exercise caution in seeking an injunction resulting in the discontinuance of service.

COOPERATION WITH THE FEDERAL POWER COMMISSION AND STATE COMMISSIONS

The general scheme of the act is to provide broad safety powers to the Secretary in gas pipeline transportation. The Federal Power Commission presently has certain safety regulatory authority over interstate transmission lines under the Natural Gas Act. The FPC is required to consider and take action on some elements of the safety of transmission proposals in acting on applications for new or extended authority and it is not intended that this act will diminish that authority and responsibility of the FPC. In order, however, that the FPC not be placed in the position of having to determine whether the construction and operation details of a proposed service conform to the Secretary's standards, an applicant may certify to this effect and the certification will be conclusive on FPC. But if the relevant State or Federal enforcement agency has information that the applicant has violated safety standards in the past (thus possibly calling in question the applicant's compliance disposition) and notifies FPC in writing, the certification will not be binding. It is not intended by the committee that this process of certification of compliance with the Secretary's standards will bar FPC from continuing to consider safety in the same fashion it presently does in connection with awarding certificates of public convenience and necessity.

The Federal Power Commission and some States issue certificates of public convenience and necessity authorizing gas transportation. Establishment of a standard or action on a waiver could affect the continuity of service under one of these certificates. If that appears to be the case, the Secretary will defer his action to allow reasonable opportunity for the FPC or State commission to take appropriate action so that, among other things, the pipeline need not necessarily violate the provisions of its certificate as a result of complying with a safety standard.

PLANS OF INSPECTION AND MAINTENANCE

An important contributor to distribution pipeline safety is the plan of inspection and maintenance according to which the company maintains surveillance of all its lines and facilities. Section 11 authorizes the relevant agency (depending on whether a section 5 agreement is in effect) to require the filing of such a plan by local pipeline companies under its safety jurisdiction. If the plan is inadequate to achieve safety, the agency may require the refiling of an adequate plan, which must be complied with. The Secretary is given the further discretionary authority to require the filing of plans for approval as to transmission lines and facilities covered by a section 5 agreement with a State.

RECORDS, INSPECTIONS, AND REPORTS

The committee bill provides that the Secretary may require the maintenance of such records, reports, and information as he reasonably deems necessary to determine whether persons subject to the act are complying with standards and regulations (sec. 12(a)). He is further authorized to monitor State enforcement practices. The Secretary is given express authority to empower officers, employees, or agents to enter upon pipeline facilities and conduct on-site inspections (sec. 12(b)). Trade secrets which come into the knowledge of Federal officers or employees in the course of their official duties are appropriately protected (sec. 12(d)).

In order that the legitimate interests of the general public will be served, the bill provides that all accident reports made by a Department of Transportation officer, employee or agent shall be available in civil, criminal, and other judicial proceedings arising out of the accidents. Further, such persons may be required to testify in the proceeding. Reports on research and demonstration projects funded under this act and accident reports are to be public, the latter in a form which need not identify individuals (sec. 12(c)).

ADMINISTRATION

The Secretary is given the necessary authority to conduct research, testing, development, and training. In addition to the customary use of contracts for this purpose, he may also make grants to individuals, States, and nonprofit institutions.

In the interest of maximizing efficiency and operational economies, the Secretary is further authorized to assist and cooperate with Federal and State agencies, and interested public and private agencies and persons in planning and developing Federal safety standards and inspection and testing methods aimed at compliance. A special direction is included to the Secretary to furnish on request of the Federal Power Commission any technical data in his possession, needed by the FPC in discharging its own responsibilities for pipeline safety.

REPORT TO CONGRESS

Each March 17, the Secretary will report to the President for transmission to the Congress, a report covering the previous calendar year including—

(1) accident and casualty statistics and the causes thereof, when the National Transportation Safety Board has made a finding of cause;

(2) a list of Federal standards;

(3) a summary of the reasons for any waivers which may have be granted;

(4) an evaluation of the extent of compliance including a list of enforcement actions and compromises of alleged violations;

(5) a summary of outstanding problems in administering the act;

(6) an analysis of research activities and their implications;

"(7) a list of pending and completed judicial actions; and

(8) the extent to which technical and consumer information is made available to the scientific community and the public.

Additionally, the Secretary is to recommend any additional legislation he deems necessary to promote cooperation among the States in improving pipeline safety and to strengthen the national gas pipeline safety program.

AUTHORIZATIONS OF APPROPRIATIONS

The bill authorizes the appropriation of such sums as are necessary to carry out the provisions of the act.

The committee has provided for assigning some of the costs of this safety program to the companies engaged in the business of transporting gas. The Secretary may require the payment of a reasonable annual fee by all persons engaged in the transportation of gas to help defray the expenses of Federal inspection and enforcement under the act.

In authorizing the Secretary in section 15(b) of the act to require the payment of annual fees by all persons transporting gas in order to help defray the expenses of Federal inspection and enforcement under the act, it is the specific intention of the committee that section 15(b) shall be construed to authorize the Secretary to collect from persons operating interstate transmission facilities and those distribution facilities not regulated by a State pursuant to agreement with the Secretary only such annual fees as may be necessary to help defray the actual cost of Federal inspection and enforcement.

It is the intent that such fees shall not be commingled with the funds appropriated by Congress under section 15(a) and the Secretary not be authorized to disburse any part of such fees to any State commission or agency under the provisions of section 5(c).

GATHERING LINES

Field gathering lines which handle natural gas were excluded from regulation under this bill because of facts brought to the attention of the committee during the hearings.

The physical and geographical characteristics of these gathering lines are for the most part quite different from either (a) the large diameter high-pressure interstate pipelines which span hundreds of miles from producing fields to the large consuming areas or (b) the local distribution lines which serve customers in, and hence underly, the residential areas of our towns and cities.

A gathering line is what the name implies. It gathers gas from scattered producing well locations to some central point *in the field* where the gas is then either processed or turned over to pipelines for more distant delivery. These gathering lines are smaller in diameter and generally lower in pressure than the pipelines, and the great majority of them are located out in the country—in the producing gas fields—with no exposure to residential areas. The record before this committee shows that over 98 percent of the gathering line mileage is in these rural locations. The record also shows that the safety experience in the operation of these gathering lines has been good.

A further point was brought out in the public hearings before this committee. This concerns the potential administrative burden involved in the safety regulation of literally thousands of these producer-gatherers. This additional burden could hamper both the initial and long-range administrative efforts of the new Department of Transportation with its admittedly limited technical staff. Based on their safety record and their very limited exposure to the public because of their essentially rural location, the field gathering lines are simply not the point of principal concern in this pipeline safety matter. It seems imprudent to create a condition where a major part of the administrative effort could be spent on an area of minor concern. This could affect the expeditious handling of safety measures involving pipeline transmission and distribution, both of which are covered by this bill.

For these reasons, the committee believes that further investigation of the need for Federal regulation of gathering line safety is necessary. Therefore, the bill, as amended, requires the Secretary, not later than 1 year after enactment, to report to Congress on the need for Federal safety standards for gathering lines.

AGENCY COMMENTS

FEDERAL POWER COMMISSION,
Washington, D.C., April 18, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request of March 6, 1967, I enclose two copies of the Federal Power Commission's report on S. 1166, which would assign gas pipeline safety responsibility to the Department of Transportation. Further copies will be supplied shortly.

The Bureau of the Budget advises that there is no objection to the submission of this report and that enactment of this legislation would be in accord with the program of the President.

Sincerely,

LEE C. WHITE,
Chairman.

"FEDERAL POWER COMMISSION REPORT ON S. 1166, 90TH CONGRESS

"S. 1166 would authorize the Secretary of Transportation to prescribe comprehensive safety regulations for natural and other flammable gas pipeline facilities. At the present, no Federal agency has such responsibility. The Commission supports S. 1166.

"The hearings on S. 1553, 89th Congress, and the Commission's Report on the Safety of Interstate Natural Gas Pipelines, dated April 19, 1966, detailed potential hazards in gas pipeline technology, the means available to overcome these hazards, and the need for an adequate, comprehensive, and legally enforceable safety code. State public utility commissions, in a preponderance of States, have used the industry code, the USA Standards Institute (USASI) B31.8 Code, to set State standards of design and construction. As a consequence, those public safety standards which now exist are determined in the main by the industry itself. In these circumstances, S. 1166 would provide for Federal safety regulation to supplement existing procedures.

"Analysis of bills.—S. 1166 would add natural gas (and other flammable gas) pipeline facilities to the facilities, including oil pipelines, for which the Secretary of Transportation may now prescribe safety regulations.

"The bill provides that the regulations shall apply to all aspects of gas pipeline facilities from initial design to operation and maintenance. It provides that any safety inspections required by the regulations may be conducted by non-Federal inspectors.

"The bill specifically preserves the jurisdiction of the Federal Power Commission, and would not preempt compatible State safety regulations. It provides that the Secretary may, in appropriate cases, waive any safety regulations it has prescribed. In addition the bill provides that the Secretary of Transportation shall:

"(1) Maintain safety records of gas companies;

"(2) Notify appropriate governmental agencies of violations;

"(3) Consult with the FPC before prescribing regulations concerning gas transmission;

"(4) Establish procedures under which new materials, operations, devices, and processes may be qualified to meet the Secretary's standards;

"(5) Advise the FPC, on FPC request, of the safety of such materials, operations, devices, and processes; and

"(6) If any regulations may affect continuity of an FPC certificated service, to consult the FPC and defer the effective date of such regulations until the FPC has a reasonable opportunity to grant the necessary authorizations.

"Comparison with previous gas pipeline bills before Congress.—For some years bills have been introduced in the Congress to assign FPC a safety responsibility limited to pipeline transmission activities subject to general FPC jurisdiction. S. 1166 is a broader bill. S. 1166 would apply to all gas facilities, including gathering, transmission, and distribution pipelines, and appurtenant facilities (such as compressor or storage facilities), whereas previous bills, such as S. 1553, 89th Congress, would have applied only to interstate transmission lines operating under certificate authorization from the FPC. In addition, S. 1166 would apply to publicly owned as well as investor-owned systems, whereas S. 1553 would have applied only to the latter systems. S. 1166 spells out two factors which were only implicit in S. 1553: (1) That the Federal safety regulations would not preempt State regulations, and (2) that non-Federal inspectors could be utilized. S. 1166 also covers other flammable gases for which there is now no Federal regulation as well as natural gas, to which S. 1553 would have applied.

"Because of this more comprehensive coverage, the Commission believes S. 1166 markedly improves upon prior bills.

"Effect on FPC.—The Commission is confident the relationship between it and DOT would be harmonious. The bill seeks to promote such harmony by such useful provisions as the following:

"1. The bill would defer the effective date of a DOT regulation which might affect the continuity of service of a FPC certificated pipeline until the FPC has had a reasonable opportunity to issue the necessary certificate of public convenience and necessity. This would enable the FPC to coordinate the DOT prescribed reduction of that hazard with the overall operations of the pipeline company in order that it continue to serve the public interest. In emergencies, of course, such coordination would be as rapid as the situation warranted.

"2. The bill would allow the FPC to be advised of the safety of materials or practices not specifically encompassed by the regulations. This would permit the FPC to promptly approve applications for new pipeline construction utilizing new materials or practices.

"3. The bill would have DOT consult with the FPC before prescribing regulations concerning gas transmission. This would enable the FPC to advise DOT of the impact of any proposed regulations on the overall supply of gas to consumers.

"S. 1166 cannot, of course, provide for all aspects of the working relationship between FPC and DOT, but we foresee no insuperable difficulties. For example, we expect that DOT would undertake to collect accident reports from gas companies, in lieu of what the FPC now requires. In such a case, the FPC would wish to be informed when such accidents might affect continuity of service of FPC certificated service.

"The FPC believes that there is a vital public need for a national agency responsible to the public to set adequate safety standards for gas pipelines. S. 1166 will effectively provide for such a national responsibility, and the FPC therefore favors enactment of the bill.

"LEE C. WHITE,
"Chairman."

FEDERAL POWER COMMISSION,
Washington, D.C., April 18, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During my testimony on S. 1553 on August 29, 1966, I offered to provide whatever information I could on the cost to the consumers of applying Federal safety standards to interstate pipeline companies. On January 19, 1967, I wrote that the matter was still under study and the estimates developed, although tentative in nature, would be submitted at the earliest possible date. These estimates have been completed and I hope they will be of some general guidance to the committee.

The specific standards which the Federal Government might promulgate have not yet been established nor has any survey been made of the degree to which pipe in the ground owned by the various pipeline companies conforms to any particular standards. In the absence of such data we therefore believe that the best approach to a cost estimate is to consider the cost increase to upgrade the safety requirements for construction, operation and maintenance of pipelines from those of the present industry code to a level of safety realistically obtainable through present technology. This technology, outlined below, is already being utilized, to some extent, by many pipeline companies.

Comparison of present industry code requirements against the present level of technology indicates that items which would involve substantial increased costs for new pipelines are—

1. Radiographic inspection of girth welds.
2. Preoperational hydrostatic tests.
3. Cathodic protection systems.
4. External coating.

Where these engineering practices are applied to new construction, they represent about 4 percent of the total installation cost of new facilities, taking into account regional variation. FPC rules do not require a detailed breakdown of the costs of particular practices used in construction so that the cost of items which FPC would consider have primarily safety implications are only listed if the company chooses. Such lack of specificity in the reports precludes determination of the extent to which these practices are utilized, although we believe they are quite common. Four percent of the jurisdictional pipeline construction in 1965, which totaled $434 million, is $18 million. A capital investment of $18 million would require additional annual revenues of $2.7 million or approximately one twenty-fifth of 1 percent of the total revenues derived from all natural gas utility sales ($7,278,454,000), in 1965.[1] The $2.7 million plainly overstates the increased cost as the review of such certificate applications show these practices are now followed at least to some extent by much of the industry. Since this one twenty-fifth of 1 percent would approximate the increase in pipeline construction costs each year assuming no company now used all four practices listed above, we estimate any possible cost increase for new lines would be minimal.

The cost of upgrading existing pipelines to a level of safety realistically obtainable through present technology (which we will assume for purposes of illustration, would be Federal requirements) may be greater than any possible costs for new construction. Such upgrading would require, at a minimum, a program of hydrostatic retesting of pipelines over a period (possibly 10 years). As a result we contemplate that some pipe would be replaced and other pipe would be used at reduced pressures. We are unable to estimate what such a program would cost, absent a detailed survey of the actual condition of pipelines including repair records and the population changes in the service areas of a representative sample of the pipeline companies.

Perhaps particular experience will offer a better indication of some of the costs involved in a program for upgrading existing pipelines. Acting on its own initiative, Tennessee Gas Pipeline Co., a major interstate pipeline company has undertaken a program including:

(1) Establishing priority for sections to be tested based upon age of installation, observed condition of pipe, population density along right-of-way, and operating conditions. Information on population density is obtained from aerial photographs, subdivision plats, and current field inspection reports.

(2) Hydrostatically testing various sections of the pipeline system to reprove the original strength of the pipeline.

(3) Additional studies to determine the need to replace any sections of pipe on the system.

(4) Review of the present program of corrosion control to seek improvement.

(5) Review of the maximum allowable operating pressures on the system. (The review, which was completed, resulted in some instances in a lowered pressure.)

The company estimated that the upgrading program would require new facilities to replace 30,000 M c.f. of daily capacity lost by reduction in line pressure. The company estimated these facilities, consisting of pipeline loops and additional compressor horsepower, will cost from $10 to $15 million, as compared to a total investment of $1.7 billion in pipeline and related facilities. The company also estimated that additional facilities to maintain service to customers during the testing program because of taking

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[1] American Gas Association "Gas Facts," 1966. Table 1, p. 3.

lines out of service will cost $10 million to $15 million. This additional construction was included in the regular expansion program of the company.

The total investment outlay of $30 million for this program requires annual charges of about $4.5 million, or about 1 percent of the company's total gas revenues. The cost of hydrostatic retesting, estimated by the company at $5,000 per mile, and the cost of replacing any facilities found defective would be additional. The above costs and revenues were stated to be only guides and may be offset by economies so as to avoid increased rates to customers. The company has not requested a rate increase.

Some of the cost incurred in upgrading facilities if such would be found necessary to meet Federal standards would be absorbed in a company's normal expansion of facilities and sales. A reduction in gas loss in transmission and increased facility life as a result of the preventive maintenance feature of the upgrading program will further offset any possible costs.

Sincerely,

LEE C. WHITE,
Chairman.

APPENDIX A

FOR NEW CONSTRUCTION

Engineering practices indicated for new pipelines which involve substantial costs are:

[*Percent of total installation cost*]

Installation practice:	
(1) Preoperational hydrostatic tests to prove the soundness of the transmission system	1.1
(2) Radiographic inspection of all girth welds to insure quality	.5
(3) Cathodic protection system to minimize corrosion	.4
(4) External coating required for cathodic protection	2.1
Total	4.1

These percentages are based on pipeline certificate applications filed with the FPC. Maintenance and operation costs for these items are negligible. The primary costs involved would be fixed costs. From Commission records an approximate average value for fixed costs is:

	Percent
Return on capital	6
Federal income taxes	3
Other taxes	3
Depreciation	3
Total	15

For the increase in utility plant of $434 million for 1965, 4.2 percent would represent some $18 million. The capital investment of $18 million would require additional revenues of approximately $2.7 million for the first year.

This $2.7 million represents approximately 0.04 percent of the total revenues ($7,278,-454,000) derived from all natural gas utility sales in 1965. The $2.7 million does not necessarily represent additional cost to the consumer as the safety practices represented by such costs are substantially followed by the industry.

Total natural gas utility sales in 1965 were approximately 119 million therms [2] which is equivalent to 11.9 billion M c.f. of 1,000 B.t.u. The $2.7 million divided by 11.9 billion M c.f. is approximately 0.023 cents per M c.f.

We are unable to estimate the cost of applying Federal standards to existing pipelines because we have only meager knowledge of the physical condition of the pipe. Age of the pipe, frequency of leaks, changes in population density along the lines, all should be examined for a representative sample of the companies to obtain a base for an estimate. The experience of Tennessee Gas Pipeline Co., a division of Tenneco, Inc., in its voluntary program of upgrading its pipeline system has been described in the letter to Senator Magnuson to provide a guide to some of the costs that would be involved in such a program.

[2] AGA "Gas Facts" 1966. Table 1, p. 3.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., March 16, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of March 6, 1967, requesting our comments on S. 1166.

The bill would amend 18 U.S.C. 831 and 834 to authorize the Secretary of Transportation to prescribe safety regulations for the transportation of natural gas by pipeline and subject knowing violations of such regulations to certain fines and penalties.

The enactment of S. 1166 would not directly affect the functions and operations of our Office. However, the proposed legislation appears to be in the public interest and accordingly, we have no objection to its favorable consideration by your committee.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

THE SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., May 10, 1967.

Subject: S. 1166, 90th Congress (Senator Magnuson).

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department on S. 1166, a bill to authorize the Secretary of Transportation to prescribe safety regulations for the transportation of natural gas by pipeline, and for other purposes.

The bill would authorize the Interstate Commerce Commission to prescribe standards for safe construction and maintenance of natural gas pipelines. The Interstate Commerce Commission would be succeeded in this responsibility by the Secretary of Transportation on April 1, 1967, under the Department of Transportation's enabling act, Public Law 89–760, section 6(e)(4). The Secretary of Transportation would also prescribe criteria for the independence of inspection agencies performing inspections under the safety regulations, maintain safety records of natural gas pipeline companies and consult with and advise the Federal Power Commission on pipeline safety and service matters.

This Department is of the opinion that there is a need for legislation in this area. With respect to the technical aspects of the bill, we would defer to the agencies more directly concerned.

We have been informed by the Bureau of the Budget that the enactment of this legislation would be in accord with the program of the President.

Sincerely yours,

ROBERT C. WEAVER.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C. June 5, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning S. 1166, a bill to authorize the Secretary of Transportation to prescribe safety regulations for the transportation of natural gas by pipeline, and for other purposes.

S. 1166 would authorize the Secretary of Transportation to regulate the safety of operation of natural, manufactured, and other flammable gas pipelines and their appurtenant facilities. Such regulations would apply to design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of existing and proposed facilities. The States would not be prevented from adopting additional regulations which are not incompatible with Federal regulations.

The Secretary may prescribe standards of competence and independence from the owners, builders, and operators of pipelines for agencies conducting safety inspections. He may, under procedures established by him, provide for the waiver of any gas safety regulation prescribed under this bill. He shall (1) maintain safety records of companies transporting gas by pipeline; (2) notify appropriate Federal and State agencies of violations of gas safety regulations; (3) establish procedures for the qualification of new materials, operations, devices, and processes to comply with gas safety regulations; and (4) advise the Federal Power Commission on the safety of materials, etc., not expressly encompassed by such regulations.

Whenever the issuance of a regulation or other action would affect the continuity of gas pipeline services authorized by the Federal Power Commission, the Secretary shall consult with and advise the Federal Power Commission before taking such a step and defer action until the Federal Power Commission has had reasonable opportunity to grant any authorizations it deems necessary.

The gathering, transmission, and distribution of gas necessarily involves serious dangers, particularly in areas of high population density, if adequate control measures do not exist. There has been considerable self-regulation by the industry under the ASA B31.8 code. Some States have incorporated this code or comparable regulations into law. Many States, however, either do not have safety regulations or have regulations which are inadequate. A deficiency of the industry code is that it does not apply to pipelines installed prior to the adoption of self-regulation standards or to revisions in these standards. Changes in conditions over a period of time, such as population trends, may have rendered pipelines installed under preexisting standards inadequate if not actually dangerous. Other shortcomings of the industry code are the absence of requirements for immediate reporting of accidents and the lack of uniform procedures for initiating investigations.

For the above reasons, this Department recommends enactment of S. 1166. However, we do have the following comments.

The provisions in the bill permitting the Secretary to waive gas safety regulations and requiring him to temporarily defer actions which would interrupt the continuity of gas pipeline services would permit equitable treatment of pipeline owners and operators and their consumers. However, we believe it would be desirable to enumerate in the bill or its legislative history some of the considerations on the basis of which waivers may be granted by the Secretary. Appropriate factors deserving consideration include (1) the degree of hazard of different pipelines in relation to population densities, and (2) the costs to firms of replacing existing pipelines in order to conform with new gas safety regulations. These costs will affect firms in varying degrees and may be unreasonably burdensome for firms which, in good faith, installed pipelines that were reasonably safe at the time, but which have since become substandard due to changed technological or social conditions or new standards of acceptability. It should be made clear that the waiver authority in the bill is broad enough to permit allowance for a phasing in period which would spread out the cost of the relatively heavy investment such firms may be required to make to meet the new standards.

The Department of Transportation should be encouraged to work closely with industry, technical, professional associations and other Government agencies in the establishment of procedures under which new materials, operations, devices, and processes, may be qualified. This Department's National Bureau of Standards has authorization and competence for comparison of engineering standards, development of methods of testing materials and structures and establishment of standard practice incorporated in codes and specifications. Also, as previously mentioned, industry has established standards applicable to gas pipeline safety.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of our report to the Congress and further that S. 1166 is in accord with the program of the President.

Sincerely,

ROBERT E. GILES,
General Counsel.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., October 31, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 1166, a bill to authorize the Secretary of Transportation to prescribe safety regulations for the transportation of natural gas by pipeline, and for other purposes.

This bill has been examined, but since its subject matter does not directly affect the activities of the Department of Justice we make no comment concerning it.

Sincerely,

WARREN CHRISTOPHER,
Deputy Attorney General.

CHANGES IN EXISTING LAW

There are no changes in existing law.

SUPPLEMENTAL VIEWS OF MESSRS. LAUSCHE, CANNON, HART, AND BREWSTER

A majority of the committee has exempted "gathering" lines from the reach of this bill. Gathering systems consist of those pipelines which stretch from the individual wells to the high pressure main transmission lines. There are over 63,000 miles of such pipelines in the Nation, while there are approximately 216,000 miles of transmission lines. By 1980 it is estimated there will be 86,000 miles of gathering lines. We do not believe it serves the public interest to put such lines outside the scope of Federal responsibility and interest.

In terms of a potential hazard to the public, such lines do not differ from transmission or distribution lines in anything but name. The basic function is the same, to transport gas from one place to another and the safety problems are virtually identical. We therefore dissent from the committee's action.

Gathering lines range anywhere from small diameter pipe operated at low or medium pressure to large high-pressure lines identical for all intents and purposes to the high-pressure transmission lines; the size depends, of course, on the volume of gas being transported. The pressure in gathering lines varies depending on the original natural pressure at the wellhead and the pressure required to inject the gas into the high-pressure transmission lines. However, the rationale advanced for total exemption of gathering lines from S. 1166 is that generally they are smaller and operated at lower pressures than transmission lines and are mostly in rural areas. It is certainly true that some gathering lines are smaller than some transmission lines, and it is true some are operated at lower pressure than most transmission lines but the opposite is also true, some have higher pressures than most transmission lines.

In cases where well pressures are low, it is necessary to step up these pressures in the gathering systems as the gas moves closer to the high-pressure transmission line. However, with increased production of gas from deeper formations where the pressures are much higher, it is common practice to conserve and utilize this natural pressure. Therefore, some gathering systems are operated at over 1,000 pounds pressure from the wellhead to the transmission line.

Mr. C. W. Miller, president, Natural Gas Producers Association, and Mr. Stanley Learned, American Petroleum Institute, in testimony before the committee hearing, admitted that 41 percent of the total gathering lines operate at over 200 pounds per square inch pressure.

It is also true, but we believe irrelevant, that most gathering lines are in the rural areas. We know also that most, but not all, transmission lines are in what could be classified as rural areas, including the transmission pipeline near Natchitoches, La., which burst and killed 17 people in March 1965, and which had been classified by the pipeline company, for purposes of determining a safe operating pressure, as a "class 1" or rural location.

Those who think gathering lines are only in rural areas would be interested in reading an article in "Oil and Gas Journal" of April 27, 1967, entitled "High Rise Drilling Climbs Skyward on West Coast." This article describes 243 gas and oil wells in the metropolitan Los Angeles area alone, including a new giant field discovered in the city of Beverly Hills. The article also describes how drilling rigs are diguised as office buildings, and in one case in Venice, Calif., as a lighthouse. The gathering lines from these rigs underlie all of Los Angeles. There is a grave potential hazard from such operations wherever they occur in the Nation.

Gathering lines are sometimes not as permanent as transmission lines, as they are designed to be used only for the life of the gas supply from the particular area or well. As a result, design and construction varies. Pipe designed and installed for gathering systems is afforded varying degrees of protection such as coating, wrapping, cathodic protection, or ground cover. In cases where the pipe installation is of a temporary nature, the lines are moved from one location to another, using the same pipe over again. Such multiple use of pipe can create certain design and construction hazards that should be covered by Federal safety standards. The wide diversity of operating characteristics of gathering lines presents safety hazards created through the many possible combinations of design, construction, and operating criteria. Gathering lines may even, in some circumstances, present greater safety problems than transmission or distribution lines which need to be dealt with. Many gathering lines carry "sour" gas; that is, gas containing sulfur or hydrogen sulfide, or wet gas containing liquid petroleum. These lines are more subject to corrosion than transmission and distribution lines which carry clean, dry gas.

It has also been contended that safety standards applicable to natural gas producers might constitute an undue administrative burden on the Secretary. Whether or not this would be true would, of course, depend entirely on the type and scope of regulations the Secretary would prescribe. We are unpersuaded that the Secretary would be unable to solve this problem which we consider to be minor unrelated to the merits of safety standards for such lines.

The answer to the arguments of the gas gatherers is not an across-the-board exemption for all gathering lines no matter their pressure, or their condition, or their proximity to a house or school, or their size, but a directive to the Secretary of Transportation to prescribe standards appropriate to the particular type of pipeline transportation. And precisely that directive is now in the bill: Section 3(a)(2) tells the Secretary to consider just those factors.

The problem of gathering lines without safety standards is not confined just to the few States well known as major gas producers. There are 25 States across the Nation with natural-gas gathering lines, ranging in amount from State to State from over 10,000 miles to 10 miles. In the State of Ohio, for example, there are gas- and oil-producing fields stretching from under the city of Cleveland southward through Akron, Canton, and Newark to the borders of Kentucky and West Virginia. The State of Pennsylvania has, for example, almost three times as many miles of gathering lines as does Louisiana, the second largest producing State in the Nation. As the accompanying table shows, 16 States (those with over 500 miles of gathering lines) account for over 98 percent of the Nation's gathering lines. And of these 16 States only four reported to the Department of Transportation in the joint DOT–NARUC survey presented to the committee that they have safety jurisdiction over gathering lines. Even with such jurisdiction, we are concerned whether such jurisdiction is exercised, as, to the best of our knowledge, all four of these States base their safety regulations on the USASI B–31.8 Code whose provisions do not even mention gathering lines. This code is the "United States of America Standard Code for Pressure Piping, Transmission, and Distribution Piping Systems," with no standards set forth for gathering lines. Where the voluntary USASI B–31.8 Code has been adopted by States, gas-gathering systems are therefore left without safety standards now, and, of course, outright exclusion of these lines from S. 1166 would perpetuate this denial of safety protection. We would be deeply concerned if the lack of governmental standards allowed gatherers to use pipe rejected for regular transmission use, because it did not meet the B–31.8 standards, or pipe taken out of transmission use because of its condition.

In short, we have seen presented no rational argument or justification for excluding gathering lines from Federal safety standards.

GATHERING LINES IN THE UNITED STATES (LISTED IN ORDER OF MILEAGE OF PIPE IN THE STATE [1])

	State	Mileage of gathering lines	State agency reply to question: "Does the Commission have safety jurisdiction over gathering systems?"		
1	Texas	10,280	Yes	------	
2	New Mexico	7,030	------	No	
3	Pennsylvania	6,830	------	------	No reply.
4	Kansas	6,494	------	------	Do.
5	Oklahoma	6,450	Yes	------	
6	Ohio	4,330	------	No	
7	Kentucky	3,450	Yes	------	
8	Louisiana	2,440	------	------	Do.
9	West Virginia	2,020	------	------	[2]
10	Colorado	1,160	------	No	
11	Montana	1,140	------	------	No reply.
12	New York	820	------	------	Do.
13	Wyoming	770	------	------	Do.
14	California	710	Yes	------	
15	Michigan	620	------	No	
16	Arkansas	580	------	No	
17	Utah	470	Yes	------	
18	Indiana	320	Yes	------	
19	Mississippi	140	------	------	Do.
20	Illinois	80	Yes	------	
21	Iowa	70	Yes	------	
22	Maryland	60	Yes	------	
23	Nevada	40	------	No	
24	North Dakota	20	Yes	------	
25	Virginia	10	Yes	------	

[1] "Gas Facts," 1966, American Gas Association.
[2] Only if owned by a public utility, not a gas producer.

FRANK J. LAUSCHE.
HOWARD W. CANNON.
PHILIP A. HART.
DANIEL B. BREWSTER.

EXHIBIT 2

PUBLIC SAFETY AND NATURAL GAS PIPELINE TRANSPORTATION: A REPLY TO THE TESTIMONY OF THE OPPONENTS OF S. 1166

(An address by Carl E. Bagge, Commissioner, Federal Power Commission, before the third annual Pipeline Operation and Maintenance Institute, Liberal, Kans., Nov. 9, 1967)

As a Midwestern Republican and as a self-proclaimed "pragmatic conservative," it was not without some trepidation that I accepted this invitation to speak in Liberal, Kansas. The subject concerning which I was invited to speak, however, is one of such personal concern that I overcame my initial fears and now courageously present myself at the Third Annual Pipeline Operation and Maintenance Institute, notwithstanding its meeting in, what is for me, the hostile ideological environment of Liberal.

Because of the importance to the Nation of the evolution of a rational national policy regarding the safety of natural gas pipeline transportation, I have taken advantage of every opportunity presented to me during the past two years to seek the support and cooperation of all segments of the natural gas industry in the enactment of legislation which will assure the American public and the industry of the continued maintenance of a safe and reliable natural gas industry. My most recent opportunity to make such a public plea was last February before a Federal Bar Association Seminar in Washington, D.C.[1] On that very day, President Johnson sent to Congress his Consumer Message in which, supplementing his State of the Union Message, he outlined the Administration's program to insure the safety of natural gas pipelines.

As I am sure you know, the President's Consumer Message was supplemented by the introduction of S. 1166. This bill, in revised form, was voted upon favorably by the Senate Commerce Committee on October 26 and will soon be pending on the floor of the Senate. In my address last February, I pled for a joint government-industry effort in evolving a national policy of pipeline safety which would not only insure the reliability and safety of pipelines but would also assist the pipeline transportation industry in realizing the broader economic potential which pipeline technology affords. Because of its persuasive character, I can only conclude that most of the representatives of the natural gas industry testifying before the Senate Commerce Committee on S. 1166 failed to read my speech prior to testifying.

In their testimony before the Senate Commerce Committee, spokesmen for the gas industry leveled many criticisms at S. 1166. Most of these arguments were based upon the assumption that there exists no need for Federal regulation of natural gas pipeline safety. While other arguments were presented, most of them are dependent upon this basic assumption for their validity. While the presentation of all of the arguments embodied in this testimony has added immeasurably to the public dialogue on the issue of the need for a Federal policy as to natural gas pipeline safety, I sincerely believe that all of these arguments can be effectively and conclusively rebutted. Although the record before the Senate Commerce Committee is closed, I should like to employ this forum to continue the public dialogue and respond to the criticisms of Federal safety legislation which were advanced at the Senate hearings.

Before responding to the specific criticisms advanced at the hearings, it is necessary to rebut the basic assumption that Federal regulation of natural gas pipeline safety is unnecessary. I shall, therefore, first describe the considerations which have led me to the conclusion that natural gas pipeline safety is indeed a problem which requires resolution through Federal legislation.

PERCEPTION OF THE NEED

Congress has long recognized that many areas of public safety must be dealt with nationally through the evolution of national standards. The Railway Safety Appliance Act, mine safety legislation and legislation giving the Federal Aviation Agency jurisdiction over air safety are early examples of the national concern that the individual and the community be protected from hazards created by the development of technology. Automobile safety legislation is a recent example of the ever-broadening national concern regarding the protection of the American public from needless death and injury at the hands of the complex mechanical instrumentalities of man.

The humanitarian uses of modern science which have resulted in breakthroughs in the fight against disease and accidents have dramatically reduced the crippling and fatal occurrences caused by both biological and mechanical agents. The recent success of this humanitarian battle on that level has resulted in a heightened social concern with other hazards in our physical environment. These newly emergent concerns run the entire spectrum of human activity from air and water pollution to cigarette smoking and pipeline safety.

We all know, as the ubiquitous sign proclaims, that "[a]ccidents don't just happen." Accidents have definite causative factors which may tend to be eliminated or their effects moderated by the application of modern science and technology. The question for those of us who share responsibilities in the gas industry is how may we assure that modern science and technology will best be applied to eliminate to the greatest practicable extent the potential hazard inherent in propelling highly flammable gases through the thousands of miles of the Nation's great pipeline network which lies as a web beneath us.

DEFINITION OF OBJECTIVE

The goal of total elimination of accidental injury and death is impossible. Two factors make this seemingly pessimistic statement a fact: First, we can never totally eliminate lapses of the thinking process which result in human error and negligence, and second, the limitations of technology and economics do not allow the development of completely fool-proof mechanical devices. Much, however, has already been achieved. Much can still be achieved in eliminating specific avoidable causes of accidental death and injury.

In attempting to achieve the objective of maintaining a safe and reliable natural gas transportation system for the Nation, it is essential to strike a balance between the technological possibilities which may contribute to safety and the economics dictated by the constraints of limited resources. Illustrative of the economic constraints upon technological solutions is the problem of brittle fracture of line pipe. At low ground temperatures, some pipeline steels lose ductility and a fracture, once initiated, may travel at high speed through the pipeline for a great distance. Cryogenic research has demonstrated that if pipeline steels were nine percent nickel, they would possess low temperature properties far superior to any environmental requirement. The use of the amount of nickel required for the tonnage of steel presently used in pipelines, however, would require the national reallocation of a very limited natural resource at prohibitive costs. Scientists, therefore, are at present pursuing alternative solutions to the brittle fracture problem which are consistent with economic requirements.

Alternative solutions to the problem of protecting the American public against the hazards inherent in natural gas transportation are not limited to technology. There are also alternatives available which involve human resources which can as a matter of national policy be dedicated to the solution of this problem.

ASSESSMENT OF ALTERNATIVES

Having perceived the need and defined our objective, what are the alternatives presently before us? They are (1) self-regulation; (2) state regulation; (3) existing FPC regulation; and, what I would characterize as the optimum alternative, (4) S. 1166, which combines the best elements of each of these under uniform Federal standards. Let us now assess each of these alternatives.

(A) Self-regulation

Pipeline management recognizes the damage potential of natural gas pipelines. Motivated by humanitarian considerations and economic incentives, companies pursue continuous technical innovation to minimize the probability of occurrence of pipeline failure. Management controls relating to installation, operation and maintenance of pipeline systems encompass detailed engineering design requirements as delineated in construction contracts, required operation and maintenance practices as set forth in company manuals, and the synthesis of industry practice in codes and standards.

Industry funded research into the causes of pipeline failure is in progress at various universities and private research centers. These studies include both the development of improved materials for the present uses of pipelines and the broadening of the concept of pipeline transportation.

The contributions of this research to pipeline safety are already apparent. The integrity of new pipelines is substantially enhanced by such techniques as protective coating, cathodic protection, radiographic inspection of welds and hydrostatic testing, all of which are products of this research. Furthermore, modern leak detection and electromagnetic pit guage equipment have been developed to ascertain the condition of operating lines.

Unfortunately, neither does the present natural gas pipeline code, USAS B31.8–1967, reflect all of these technological achievements nor, where it does reflect these advances in technology, does it declare their application to be mandatory. Hence, there is no assurance to the American public that the available technology is being utilized by the industry as a whole. Self regulation, therefore, has not provided an adequate alternative.

(B) State regulation

Forty-six states have adopted safety regulations for natural gas pipelines. Forty-five of these states employ the USAS B31.8 Code, the limitations of which I just described, as a basis for their regulations. A recent study by the Department of Transportation in cooperation with the National Association of Railroad and Utilities Commissioners demonstrates that state safety regulation is subject to further limitations.

The DOT study is based on a questionnaire submitted through NARUC to all states and the District of Columbia on April 4 of this year. The DOT analysis of the responses to this questionnaire, dated July 18, 1967, shows that of the forty-four commissions responding, four do not have authority to establish safety standards for the natural gas industries. Further, only twenty-six have safety jurisdiction of interstate transmission systems, and thirty-nine have safety jurisdiction over intrastate transmission systems. While forty have safety jurisdiction over privately owned distribution systems, only ten have such jurisdiction over publicly owned distribution systems. Only nine commissions periodically test and inspect exist-

[1] "Public Safety And Pipeline Transportation: A Plea For A Rational National Policy," address before the Federal Bar Association and the Foundation of the Federal Bar Association, Washington, D.C., February 16, 1967.

ing natural gas pipelines. Twenty-one commissions have inspection staffs, but in twenty of these twenty-one cases the inspection staff ranges in size from one to four inspectors. Twenty-two commissions establish the cause of accidents.

This survey adequately demonstrates the fragmented nature of public involvement through state government in pipeline safety. Jurdisdiction over the three components of the natural gas transportation system—gathering, transmission, and distribution—varies widely from state to state. Inspection to determine compliance with existing safety standards is virtually non-existent in a large percentage of the states.

The NARUC Committee on Gas, through its sub-committee of staff experts, has developed proposed modifications to the USAS B31.8 Code. These proposals are two-fold in nature. First, they are intended to transform certain voluntary provisions in the code into mandatory ones. Second, they are intended to strengthen various technical aspects of the code concerning standards for allowable operating pressures, testing procedures for new and old pipe, operation and maintenance of pipelines, prevention of corrosion and improvement of old installations. A number of NARUC proposals have been adopted by USASI. The remaining proposals either have been rejected or are still under consideration by that body.

These efforts by NARUC should be applauded. Laudable as they are, however, the conclusion that exclusive state regulation is not a viable alternative is inescapable.

(C) Existing Federal regulation

For thirteen years prior to 1967, the Federal Power Commission recommended to each session of Congress an amendment to the Natural Gas Act providing the Commission authority to set minimum national safety standards for natural gas pipelines. This recommendation has not resulted in legislation. Hence, Federal involvement in natural gas pipeline safety is, at this time, limited.

The Commission, since 1966, has been prescribing safe operating pressures for new jurisdictional natural gas pipeline construction. We have done this by making the pressure recommendations of USAS B31.8 a condition to securing a certificate. In 1966, we also instituted a program under which interstate transmission pipeline failures must be reported to the Commission so that we can develop national data on the causes and effects of pipeline failures. Prior to our action, there was no national collection of such data, either as to the frequency of pipeline failures or their causes. Statutory authority and budgetary limitations preclude the development of the Federal Power Commission's expertise in the safety field, severely limiting our participation in any meaningful program to assure the safety of natural gas pipelines. It is clear, therefore, that, given the statutory and budgetary limitations of both Federal and state governments, the essence of the regulation of the safety and reliability of natural gas pipelines in our Nation today is self-regulation by the natural gas industry.

In assessing the safety effort up to this point in time two questions may be asked:

1. Does the present level of effort really satisfy the heightened public concern with respect to natural gas pipeline safety?

2. Should the balance between the requirements of safety and those of economics be, in the final analysis, determined by those whose primary duty is economic, that is, natural gas industry management?

These are the questions which each member of Congress must now ask himself in evaluating S. 1166. These are the questions I posed to myself in coming to the conclusion that natural gas pipeline safety is a problem which requires resolution through Federal legislation. Public confidence in the safety and reliability of the natural gas transportation system is a prerequisite for the continued growth and continued acceptance of natural gas as an economical and dependable source of energy. This confidence has been shaken by a number of recent incidents involving pipeline failures. Having reached the conclusion that the *status quo* is not sufficient to protect either the public or the industry, we must, and I believe we have, developed an alternative which is preferable to each of the other three. That alternative is embodied in S. 1166.

(D) The optimum alternative

In supporting the Administration's proposal to consolidate natural gas pipeline safety with the other transportation safety responsibilities (including oil and products pipeline safety) in the Department of Transportation, the Commission reasoned:

1. The first three alternatives discussed above are not alone sufficient, but can provide an invaluable basis of expertise from which meaningful standards of safety can be derived.

2. Engineering requirements that assure safe operation of natural gas pipelines are rooted in a technology common to all pipelines.

3. The technical expertise which DOT is at present developing to discharge its responsibilities with respect to oil and product lines would be immediately applicable to natural gas lines. Expertise developed by DOT in the promulgation and enforcement of Federal standards for transportation of flammable gases by other modes of transportation would also be invaluable.

4. Such consolidation of pipeline safety responsibility would eliminate unnecessary and costly duplication in the investigation and compliance functions of safety authority as to natural gas and oil lines.

5. Regulation of the safety aspects of the transportation media for competing forms of energy-coal, oil and natural gas would be centered in a single agency. Safety requirements may well have an economic impact on the railroad, highway and pipeline modes of transportation.

6. The Administration bill would assign a broader responsibility, going beyond the interstate pipelines now subject to FPC jurisdiction, and provide a logical national policy for safety regulation of all phases of natural gas transportation now and in the future as changes in that policy may evolve.

SPECIFIC CRITICISMS OF THE NATURAL GAS PIPELINE SAFETY ACT

Having expressed the reasons why I believe that the basic and underlying criticism of S. 1166 is unwarranted, I should like to turn to the specific criticism articulated by the spokesmen who opposed the enactment of S. 1166 before the Senate Commerce Committee.

First, opponents of S. 1166 argued that Federal safety regulation as envisioned in the bill would destroy the USAS B31.8 Code and the effectiveness of the Code Committee.

Similar legislation for pipelines transporting oil and oil products has been in effect since July 1965. Despite, or perhaps because of, this, the USAS B31.4 Code Committee (the oil and products pipeline counterpart to the USAS B31.8 Committee) is today a vital organization. It has recently issued an up-dated and more comprehensive code for oil transportation pipelines. Mr. William K. Byrd, the director of the division of the Secretary of Transportation's office which is responsible for developing oil pipeline safety regulations and which would be charged with preparing natural gas pipeline safety regulations, in discussing the oil pipeline regulations soon to be issued, stated:

"The general content of the regulations will not be unfamiliar to you. Existing codes used by the industry have been relied on quite a bit as a basis for the regulations along with the best ideas of our technical staff, always keeping in mind our basic responsibility to the public."[2]

It appears, therefore, that unless the USAS B31.8 Code is much more unrealistic and more ineffective than most of us believe it to be, it will remain a continuing force in the gas pipeline safety field.

Second, opponents of S. 1166 argued that the failure and accident rate of natural gas pipelines is so low and the causes of present failures so different to eliminate that Federal regulation would be relatively ineffective.

The old saying that "an ounce of prevention is worth a pound of cure" provides us with an answer to this argument. We cannot sit idly by and wait for another Natchitoches to force us into the enactment of national safety legislation. The conditions under which pipelines have operated in the past are changing. Increasing population and expanding metropolitan areas have resulted in increased building adjacent to high pressure transmission lines. The age of portions of the Nation's gas transportation system, particularly those portions of distribution systems which were built for manufactured gas, and maintenance difficulties in metropolitan areas are factors which must be given weight in evaluating the reliability and safety of natural gas pipelines.

We must provide the means now for a thorough evaluation of safety and reliability while cool heads and analytical voices can still influence ultimate decision making and while economics can still be given weight. If we wait for another Natchitoches to provide the impetus for legislation, not only may lives be needlessly lost; but the shouts of the demagogue could well foreclose a rational and balanced solution to the problem.

Moreover, statistics which attempt to show that pipelines are by far the "safest means of transportation," while accurate, distort through oversimplification the situation which really exists. As developed through questioning by Senator Hugh Scott of Pennsylvania, pipelines, unlike automotive vehicles, planes and trains do not carry people, and the statistics for passenger-carrying modes include passenger as well as non-passenger casualties.[3] To compare death and personal injury statistics of pipelines with these other modes of transportation is, therefore, inappropriate. So, while the safety record of the natural gas industry is good in absolute terms, the comparative studies made public to date are meaningless.

Third, those opposing S. 1166 argued that the retroactive feature of Federal requirements would impose an undue economic burden on the industry and its consumers.

An article of general interest to the industry illustrating the effective use of self-regulatory retroactive safety standards appeared in the March 1967, issue of the American Gas Journal

As background and to explain company motivation, the following questions were posed.

"Can a gas distribution company with a good record for safety to the public and a history of excellent service reliability be satisfied that it is meeting its obligations to its customers and the public in general? Or is every company under a moral obligation to, at some time or another, step back and take a good hard look at itself to determine whether or not there is something more that can be done to further improve both the safety and the service reliability of its distribution system?"

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[2] "Federal Safety Regulations For the Liquid Pipeline Industry," William K. Byrd, Annual Pipeline Conference, April 1967, Dallas, Texas.

[3] Hearings on S. 1166 Before the Committee on Commerce, 90th Cong., 1st Sess., 268 (1967).

"Does adhering to present codes and regulations fulfill its obligations? Does a good set of construction standards based on modern designs and the best available materials and techniques assure a relatively trouble-free distribution system? Are heads buried in the sand when operators hide behind the provision found in most codes and regulations that the provisions of the codes and regulations are not retroactive to construction that existed prior to their enactment?"

A committee of the Philadelphia Electric Company gas division employees was formed under management auspices to evaluate completely the gas system and company practices to determine whether or not changes should be made in the interest of updating and improving the system.

A total of 87 recommendations of the study group were approved by management. A few examples:

1. An extension of cathodic protection to the whole system.
2. The phased replacement of certain types of mains which show an unusually high incidence of leaks.
3. A phased elimination of inactive services.
4. An accelerated program of renewal of services.
5. Removal of unnecessary drip risers and the rebuilding of those risers selected to be retained.
6. A phased program of removing obsolete valves and replacement in critical locations.
7. A service program to insure operability of curb cocks.
8. An intensified leakage survey program.
9. Review and upgrading of procedures used to classify and service reported leaks.

The cost of this program has been included in the normal financing program of the company and will be spread out over 10 years. Substantial savings in capital and maintenance expenses are expected as a result of this program of preventive maintenance.

Furthermore, Section 3(a) of the bill, as now written, states that—

"Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standard is adopted, unless the Secretary [of Transportation] finds that a potentially hazardous situation exists, in which case he may, by order, require compliance with any such standard."

Fourth, opponents of S. 1166 argued that Federal regulation would result in burdensome dual regulation.

Sections 3 and 5 of the bill, as now written, have responded to this criticism by preempting for the Federal government the duty of setting standards applicable to interstate transportation facilities and giving to the states the duty of prescribing and enforcing safety standards applicable to distribution facilities subject only to the states' standards, at a minimum, complying with Federal standards. It appears, therefore, that this criticism is no longer valid, if, indeed, it ever was.

Fifth, opponents of S. 1166 argued that the expertise required to promulgate effective safety standards resides with industry personnel, that these experts working with state regulators have developed safety regulations which are effective and sufficiently flexible to fit local needs and that Federal standards would result in wasteful and pointless expenditures for unnecessary requirements which would impose an unnecessary burden on consumers.

S. 1166, as now written, is pervaded with language which meets this criticism. In addition to the flexibility given by section 5, mentioned above, that assures the flexibility required to fit local needs, section 4 calls for the establishment of a technical pipeline safety standards committee which will include, among its 15 members, five members to be selected from the natural gas industry after consultation with industry representatives. These experts should have a continuing voice in the promulgation of safety standards. Furthermore, while the Federal government is admittedly something of a novice in this area, it was at one time also a novice in all other fields of safety in which it now has built up an enviable body of expertise. Take for example, the air safety field, a field which must be conceded to present a great technical challenge. Government experts now have a broad understanding of aircraft safety from the conceptual stage of aircraft technology until obsolescence. There is no reason to believe that it is impossible for government experts to achieve similar expertise in the gas pipeline safety field within a reasonable period of time, especially in light of the fact that this expertise is already being developed in pipeline technology generally through DOT's specific responsibilities with respect to product lines.

CONCLUSION

The foregoing constitute the principal specific criticisms leveled at S. 1166 during the Senate hearings. It is unnecessary to deal with the other industry criticisms since they overlap and are included in the arguments against the bill which I have already discussed and rebutted. Another argument, for example, was that Federal regulation would preempt the field of pipeline safety and devitalize the present NARUC effort to develop effective state regulation. In answering the burdensome dual regulation argument mentioned above, S. 1166 now also answers this argument. But it is also interesting to note the inconsistency of the two arguments, for both of them cannot be valid criticisms at the same time.

It is then clear that, granting the basic assumption that there is a need for action beyond that now being taken in the area of pipeline safety, S. 1166 provides an effective vehicle for the commencement of that action. It provides a meaningful synthesis of self-regulation and public involvement on both the state and Federal levels in order to insure the continued existence of a safe and reliable network of natural gas transportation to the Nation. It will allow the socially responsible management team to undertake to protect itself and the public from the dangers inherent in pipeline failures without fear of competitive disadvantage from those who are not as quick to employ the new technology or not quite so fastidious in carrying out their social responsibilities.

Nothing less than the public's confidence in the leadership of the natural gas industry and the public's continued acceptance of natural gas as a safe competitive fuel is involved in this issue. It would be most unfortunate if the auto safety debacle which shook the confidence of the American public in Detroit were to be repeated now as we head for the final lap in the progression of this bill through the House. It is clear, therefore, that S. 1166 provides a vehicle for merging the self interest of the natural gas industry with the public interest. It deserves the support of this industry, which should work not to defeat it but to secure its enactment without further delay. It seems to me that the natural gas industry should take another look at this bill and re-evaluate its position based upon its present form. Your endorsement of the present draft, which is certainly a proposal which you can support, would place the natural gas industry in a positive and constructive posture in the public's mind at the very time that at least a large segment of your competitors in the electric power industry are assuming a negative and hostile attitude toward the counterpart legislative proposal in the electric power field—the Electric Power Reliability Act. Here is a unique opportunity to identify with public opinion and demonstrate your confidence in the utility and safety of natural gas as a competitive fuel. I sincerely hope you take advantage of it for your own and the Nation's welfare.

Mr. COTTON. Mr. President, before the Senator from Washington yields to the Senator from Ohio, will the Senator yield to me briefly?

Mr. MAGNUSON. I yield to the distinguished Senator from New Hampshire who was so helpful, particularly as the ranking minority member, to see that we got a bill that I think is going to insure the safety that we are talking about, but which is still a practical bill that everyone can live with. I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I commend the distinguished Senator from Washington, the chairman of our committee, not only for the effective, clear, and lucid way he has reported on the committee's deliberations on the bill but also the way in which the bill was considered and reported to the Senate.

I am thoroughly in accord with most of his statements. Some of us felt very strongly that there were two main points on which there was a difference of opinion in the committee. One point, as the distinguished Senator from Washington has said, is on the matter of the inclusion of so-called gathering lines; and the second point was the matter of criminal penalties rather than the injunction and civil penalties that would be contained in the bill.

Personally, I feel very strongly that we should walk before we run; that there was a distinct difference. I think the case was made that there is a real difference between these transmission lines that run through many States and through, by, or under many metropolitan areas. It is highly necessary that every precaution be taken to protect the lives and safety of the public.

In many cases, the gathering lines are of a temporary nature, built to last only a few weeks or a few months. In almost all cases, they are not adjacent or close to residential areas. However, they are subject, of course, to all the regulations, rules, and laws of the States in which they are situated. Therefore, I frankly felt it would be much better at this time, as we inaugurate this very necessary and meritorious legislation, that we strike at the heart of the main problem, and leave a little discretion to those who will administer the act and to those members of the committee who will exercise oversight in the workings of the law and will consider further refinements later.

Senators will recall that we faced the same problem with respect to automotive safety. We considered the question of criminal penalties in addition to the substantial civil penalties, the injunctive process, and the contempt process with respect to enforcing such safety codes as may be issued.

I do not believe that when we are dealing with an American industry, we should deal with it on the principle, at the outset, that it is criminally disposed; has no regard for the safety of the public, and should, therefore, be stigmatized by the imposition of criminal penalties

when civil penalties are quite effective, as they have proved to be in other fields in the enforcement of laws to preserve public safety.

The bill, as we bring it upon the floor of the Senate, is the result of much deliberation. It is supported by a majority of the committee. It is a good bill, it is a good beginning, and it lays the foundation for exactly what is necessary to be done in this field.

Again, I commend the chairman of the subcommittee which held the hearings; the general counsel of the committee, Mr. Michael Pertschuk; and the other members of the staff, both majority and minority, who worked together so well in framing this measure. The bill is the result of the combined efforts of all members of the committee, who had the assistance of an able staff. It is the result of a careful consideration of the evidence adduced before the committee in the interests of the public, the industry, and the States. It is a job well done. I certainly endorse it.

Mr. MAGNUSON. The staff members certainly did a fine job. Ray Hurley did a tremendous job. But I want the RECORD to show that this bill is one of several bills which the Commerce Committee has considered in this session. A long line of bills have been directed toward consumer protection. We have dealt with auto safety, tire safety, hazardous substances, flammable fabrics, gas pipeline safety, and many more that I could name. The committee has emphasized and done more work in these two fields, I think, in the past year and a half than in a dozen preceding years, because they felt it was necessary. This is one in the long line of consumer protection and safety bills which we hope will achieve the purposes we have tried so hard to work toward. At the same time, I reiterate that the committee was practical about it, too.

Mr. LAUSCHE. Mr. President, I should like to address an inquiry to the Senator from Washington and the Senator from New Hampshire. Is it not a fact that in the bill we give the Secretary the power to fix regulations in accordance with the kind of distribution or transmission lines involved.

I read from the bill on page 6 dealing with the fixing of standards:

> Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted, unless the Secretary finds that a potentially hazardous situation exists, in which case he may by order require compliance with any such standards. Such Federal safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the Secretary shall consider—
>
> (1) relevant available pipeline safety data;
>
> (2) whether such standards are appropriate for the particular type of pipeline transportation;

It is that last item, No. 2, to which I wish to direct the Senators' attention, that the regulation must be considered in light of its appropriateness to the particular type of pipeline transportation.

My question is: We have exempted the gatherers of gas. We have said, "Though you have many miles of pipeline under ground, we exempt you."

Mr. MONRONEY. Mr. President, will the Senator from Ohio yield right there?

Mr. LAUSCHE. Let me finish my statement first.

My position is that if the gatherers of gas are not in the category of producing the dangers, then we have given the Secretary the latitude to deal with that so as to minimize the regulation; is that not correct?

Mr. MAGNUSON. I agree with the Senator from Ohio. I think that we have. I think we have, in this case, because when we come to the gathering lines, the standards would apply to a particular line. One may be a little different from the other. The pressure may be different. The terrain the pipeline goes through may be different, or the number of people who might live in the area might vary. Thus, I think we did. But that was one of the contentions in committee, as we all know. But we did not exempt the gathering altogether. We said that within 1 year, after we have made this study, they should come in and tell us if we have done enough and whether we should institute gathering in this matter.

Mr. LAUSCHE. That is correct.

Mr. COTTON. Mr. President, I am happy to respond to the Senator from Ohio. I would say that the amendment on page 8 was proposed by me. Beginning on line 16, page 8, section f reads:

> Not later than one year after the date of enactment of this Act, the Secretary shall report to the Congress on the need for Federal safety standards for gathering lines for the transportation of gas, together with such recommendations as he deems advisable.

Mr. President, I hope that in just a moment the distinguished Senator from Oklahoma—a very senior member of the committee, one who lives in a section of the country where he is in a position to have more firsthand knowledge, perhaps, of the problems of the nature of these gathering lines than any other member of our committee—and, I would almost say, any other Member of the Senate—will give his answer to this; but in view of the fact that the question was addressed not only to the chairman but also to me, I should like to say this:

It is perfectly true, and the point made by the able Senator from Ohio is completely valid, that where the bill provides "whether such standards are appropriate for the particular type of pipeline transportation," it shall be taken into consideration by the Secretary and, in theory, that provision would amply take care of the gathering lines because the Secretary would have the power to apply the proper standards, which are fair and practical standards as to gathering lines, as well as to the established, cross-country interstate pipelines.

That is perfectly true in theory, but, if I understand the situation as I heard it and as it was ably explained in the committee by the Senator from Oklahoma, as a practical matter the Secretary would have to call out the National Guard or have an equal number of inspectors and investigators to exercise that discretion immediately on all gathering lines.

It is my understanding that some of them are in place only temporarily, and then are torn up because the wells run dry. Some are in places where there is no population. Some have considerable pressure; some do not. Many of them are temporary in nature.

Perhaps the Secretary could enforce it; I do not know. That is why I offered the amendment. That is why we did not simply leave the problem of the gathering lines in a void and throw it out the window. That is why we proposed to give him some means by which he could ascertain what is necessary. But to expect the Secretary to police this matter and have adequate people to police it and establish these standards and be fair and practical in dealing with the industry and the gathering lines seems—particularly after listening to the very able explanation of the Senator from Oklahoma—to the Senator from New Hampshire that this was a practical and just and sensible way to handle it.

While in theory it was taken care of by the provision offered by the Senator from Ohio, in actuality it was not.

I am sure the Senator from Oklahoma will correct me if I am wrong.

Mr. LAUSCHE. Mr. President, I think the Senator from New Hampshire has rather substantially set forth what took place in the committee. It is conceded that the language on lines 23 and 24 would give the administrator the power to fix regulations in accordance with the dangers involved. The Senator from Oklahoma [Mr. MONRONEY] and other Senators have suggested that we not include the carriers of gas in the bill, but that we allow the administrator, within 1 year, to report back to us what he thinks should be done. The contrary argument was that the administrator had already recommended, and the experts had recommended, that the carriers of gas should not be excluded even for 1 year.

Mr. MONRONEY. Mr. President, will the Senator yield?

Mr. LAUSCHE. I will in just a moment, please.

So the majority of the committee, while conceding that the administrator would have the power to fix regulations in accordance with the dangers involved, nevertheless said, "Let us exempt them for 1 year, at the end of which time the Administrator shall report what he think should be done."

My answer is, the administrator has already recommended, the experts have already recommended, that they should be regulated.

Now I yield to the Senator from Oklahoma.

Mr. MONRONEY. Mr. President, the distinguished Senator from Ohio has talked about the experts recommending and the Secretary recommending. Would he be good enough to show us in the record any recommendation or any testimony showing any need——

Mr. LAUSCHE. The bill——

Mr. MONRONEY. I am asking the Senator to show us what was before the committee showing the need for the inclusion in this bill, at this time, of the regulation of the gathering systems.

I was the only one in the committee, I think, who was interested in the gathering lines enough to question the witnesses. In my questioning of Secretary

Boyd, I dealt specifically with the reason for including long lines in the transportation system, because of the high pressures they were under, and that was quite proper. He responded on the distributing systems. When I talked about the gathering systems and asked him questions, I asked Mr. Boyd about that, and this is the nearest answer I received from him.

I asked, as appears on page 13 of the hearings:

Would you feel it necessary that the gathering systems would have to be under the same type of code that you would ask for the long-line transmissions and the distribution systems that go under populated areas?

Secretary BOYD. No, I don't think I would want to say it should be under the same type of code if by that you mean the same general regulations. I think there should be regulations for gathering lines.

Senator MONRONEY. You feel they would be essential?

Secretary BOYD. Yes, sir.

Senator MONRONEY. That regardless of their character for the production of gas, they would still have to be regulated to give a degree of safety?

Secretary BOYD. Yes, sir.

We have a "Yes, sir" answer without a bit of factual evidence, a single bit of proof with respect to the distinctive type of service involved, the low pressures under which they operate. Ninety-eight percent of them are used right in the field. They do not operate under the high pressure of the lines used in the big cities or the metropolitan areas.

This is the reason for the wisdom of the distinguished Senator from New Hampshire's proposal, instead of, willy-nilly throwing this open and saying, "This is a pipeline." Of course it is. We have to get the gas into the pipeline. We have to take it from the well-head and into the gathering line. It takes it into the field line, which is the head of the transmission line. There it is under high pressure. It is brought to a lower degree of pressure under that system.

When I asked the Secretary if he thought the gathering lines should be regulated, the Secretary said, "Yes, sir." No facts or information were given about any particular problem or the difference between the lines that exist in the field and those that do not.

I would have preferred to have the language in the report, but the distinguished senior Republican member of our committee, the Senator from New Hampshire [Mr. COTTON], thought it would be better in the bill, and the committee so put it in the bill. It appears on page 8, subsection (f), starting at line 16, and the language reads:

Not later than one year after the date of enactment of this Act, the Secretary shall report to the Congress on the need—

I repeat—

on the need for Federal safety standards for gathering lines for the transportation of gas, together with such recommendations as he deems advisable.

I think that is wise. I think that is logical.

I ask the Senator to show me any place in this massive booklet where any specific testimony was produced by the Secretary of Transportation or by his officials or by the men who testified or by the operators or municipal officials who came before the committee to testify, showing any factual need or evidence showing the need for including the gathering systems under the bill at this time.

I think the wisdom of the amendment of the distinguished Senator is apparent. The Committee on Commerce will be in existence 1 year from today. The Senator from Ohio [Mr. LAUSCHE] will be here 1 year from today. I hope the Senator from Oklahoma will be here 1 year from now. The chairman of the committee will be here 1 year from now.

This is the proper way to show cause. There is not one bit of evidence showing the reason for the inclusion of the gathering lines at this time, simply because they are called pipelines. The distinguished Senator from Ohio would treat a 2-inch pipeline the same as a 36-inch pipeline. He would dump them all in together, and pay no attention to need. He would pay no attention to how many people will have to be walking the lines to be sure to get the kind of code necessary.

I think this proposal to move the long arm of the Federal Government willy-nilly into every 640-acre section of land in Oklahoma, Texas, or wherever gas is produced, without any showing for the need, is unnecessary at this time. The amendment offered by the Senator from New Hampshire requires that the Secretary shall report within 1 year. The Senator from Ohio has said that is too long.

Mr. LAUSCHE. I did not say that. I said studies have been made and it has been recommended that all pipelines be covered. The Senator from Oklahoma says, "Yes; cover all but the producers." I say there is no justification for saying we will cover one but not the other.

I am not in favor of the Federal Government sticking its fingers all over the map, in regulating local matters; but if they are going to stick their fingers one place, they had better stick them in all places.

Mr. MONRONEY. Would the Senator state what study has been made with respect to the gas gatherers?

Mr. LAUSCHE. Yes, I shall answer the Senator's question. The Senator from Oklahoma has a special interest in this matter.

Mr. MONRONEY. Indeed we do; we have the best and finest gas field in the world, which we share with Kansas, the Hugoton Field. If it were not for the gas producers in Oklahoma and Kansas; the people in Ohio would be cold today, because their gas fields have been exhausted.

Mr. LAUSCHE. Yes. Now, Secretary Boyd, the highest transportation official in the Government——

Mr. MONRONEY. From what page is the Senator reading?

Mr. LAUSCHE. I am reading from page 13, which the Senator from Oklahoma read from.

Secretary Boyd is appointed to serve the people. His concern is to take care of the consumers, and take care of the safety of all of the people. He appeared as an impartial, objective witness, and said the producers of gas should be regulated also, as are the distributors and transporters of gas.

He, of course, said that they did not have to be regulated with the same formula, but he clearly stated that the several industries should be regulated.

May I point out what is happening——

Mr. MONRONEY. Would the Senator quote directly? He stated no reasons when he said "Yes, sir" to my question.

Mr. LAUSCHE. Just one moment:

There are now over 800,000 miles of gas pipeline in the United States including approximately 63,000 miles of gathering lines—

Those are the ones in which the Senator from Oklahoma is interested—

224,000 miles of transmission lines, and 536,000 miles of distribution lines.

The Senator from Oklahoma says that for the moment, at least, they all should be covered except the gatherers of gas. They, he says, should be exempted. "We shall delay putting into force the regulation until 1 year from now, and then make our argument to block the whole thing."

Mr. MONRONEY. Mr. President, will the Senator yield?

Mr. LAUSCHE. I yield.

Mr. MONRONEY. The Senator knows this bill well enough to know that no regulation is going in for 2 years from now, so we will have a full——

Mr. LAUSCHE. If the Senator's view prevails, his group will not come in until 3 years have expired.

Mr. MONRONEY. That is right; and with the low pressures, and 98.2 percent of the gathering lines running through rural areas, no case has been shown. All the quotations that I can find from Secretary Boyd or anybody representing him, or any of the witnesses, the firmest conviction or knowledge that he presents of the problems of the gathering line industry is when he says, "Yes, sir" to my statement. I say, "It is a different type of operation," and he says, "Yes, sir."

But he gives no facts and no figures, establishes no need, presents no statistics of any kind on the gathering lines. Yet the distinguished senior Senator from Ohio would turn over to the bureaucracy of a department the right to regulate gathering lines, without any facts being presented—as was presented regarding the transmission and the distribution lines; we had worlds of testimony on their hazards, on the pressures, and on the accident rates, but there is a complete blank as to any need as far as the gathering lines are concerned. And yet the Senator would grandfather or blanket those lines in, simply because they are called gas pipelines.

There is a great deal of difference between the small tributary stream at the source, the tiny little creek, and the great torrent of the Ohio River as it flows through the Senator's State.

Mr. LAUSCHE. I concede that, but we provide for that difference by permitting the administrator to apply different regulations to different dangers.

Mr. MONRONEY. But is the need established?

Mr. LAUSCHE. The need, of course, is established——

Mr. MONRONEY. The Secretary has a year in which he can study the problem, and then rule. The Senator from Ohio would summarily conclude that the gathering business is guilty, and then have the trial. What I think we ought to do is have the trial and seek the evidence to establish the need. We have a year to do it. We have a mandate of Congress directing the Secretary to study this matter, which obviously, from the hearings, he has not, and nobody in his whole outfit has. I hardly think they knew gathering systems existed at the time they drafted the bill. They were, of course, rightly concerned with high-pressure transmission and distribution lines, which carry the gas under pressure and across our cities throughout this Nation.

Mr. LAUSCHE. Can the Senator from Oklahoma point out, from the record, where any one of the impartial Government witnesses said that regulation was not needed for the gas producers?

Mr. MONRONEY. Well, the Senator has a different idea than I have to the way we should grant power. I do not think it is necessary for witnesses to say they are not needed. I want the Government department to say affirmatively they are needed.

Mr. LAUSCHE. They did say it.

Mr. MONRONEY. He was asked why we have to impose regulation, but not one word of reason can I find except "Yes, sir."

Mr. LAUSCHE. That was a rather forceful "Yes, sir," after the Senator interrogated him.

Mr. MONRONEY. But yet he is a man of great authority and competence, and I respect him for it. He knew his lesson, he knew the need, on the transmission and distribution lines; but he said, "Yes, sir," and that was all he said as to why he thought gathering lines should be included.

I, for one, whether it is in my own State, where production of gas is an important matter, or in the Senator's State, where the price is an important matter, do not favor hampering the production and increasing the cost by unnecessary and useless regulation and unnecessary and useless standards that might be imposed by men who are so unknowledgeable of the production of gas, and the pooling of it to get to the gathering stations, where the transmission lines head up, that they would lead me to believe that if we blanket all the lines in, without their knowing the situation, we are liable to have these lines compared to the other lines which are under regulation.

I shall develop that later from statistics which are well known in the industry, and facts which we well know in the gas fields, that make this a distinctly different problem.

For that reason, I think the amendment of the Senator from New Hampshire is exactly in line. As I say, I wanted it in the report. I did not get it in the report, but I accepted it in the bill itself, and I think on reflection it is far better for it to be in the bill, because there is now a definite limit of 1 year. The provision says "not later than 1 year"; he can come in a lot earlier than that if he wants, to but—

> Not later than one year after the date of enactment of this Act, the Secretary shall report to the Congress on the need for Federal safety standards for gathering lines for the transportation of gas, together with such recommendations as he deems advisable.

He has not as yet shown us one reason nor one bit of knowledge of the situation. We give him a year to go out and look. Yet the Senator from Ohio would include this system, a system including not merely the 62,000 miles the Senator mentioned; there are 71,000 miles of gathering system. This is 9 percent of the 800,000 miles of the total gathering, transmission, and distribution lines in the United States. This is important mileage, and it is important that we do have whatever standards may be needed for it. If we need high standards, we will get them, I am sure.

The industry has a marvelous record of safety throughout the long years it has been producing gas in the fields of western Oklahoma, Texas, and New Mexico, and carrying it through the long lines up to Ohio, which used to supply gas for most of the East. But now their fields have gone down, and, unfortunately, they have to be customers of States like Oklahoma, which still have that resource.

Mr. LAUSCHE. I merely wanted to state that as between accepting the word of the producers of gas and the word of Secretary Boyd and other public officials, I will take the latter.

Secretary Boyd said that he did not feel that the producers of gas should be exempt. He was not examined on the question of the basis on which he made that statement. There is nothing in the record to contradict factually what Boyd demanded. There is the self-evident principle that when we seek to protect the public's life and body through a specific type of pipeline, we ought to cover the whole field presumptively. That presumption was strengthened by all the testimony given by impartial, objective witnesses. It was negatived by the gas producers, but not by a single impartial witness who appeared before the committee. Each one of the Government witnesses said that the producers should be covered exactly as the transmitters and the distributors are covered.

Mr. MONRONEY. The Senator from Ohio does not mean to say "exactly" as they are covered. He just mentioned that there are different types of regulation. We should keep the record straight.

Mr. LAUSCHE. Yes; covered in principle exactly.

Mr. HART. Mr. President, will the Senator yield to permit me to comment on that point?

Mr. LAUSCHE. I yield.

Mr. HART. Was it not made clear in the hearings that 41 percent of the total number of miles of gathering lines were operated at more than 200 pounds to the square inch? As I recall, the president of the Natural Gas Producers Association and a spokesman for the National Petroleum Institute told us that.

Mr. LAUSCHE. That is exactly the fact—41 percent of 71,000 miles of gathering lines are in the most dangerous category. Yet the gas producers from around the country are saying, "Everybody is creating danger except us, the gas producers. We should be exempt from the law." I am not willing to go along with that argument. There will be uniformity of treatment, so far as I am concerned. No special fat cat or golden calf or sacred cow will be given exemption, if I can help it.

Mr. GRIFFIN. Mr. President, will the Senator from Ohio yield?

Mr. LAUSCHE. I yield.

Mr. GRIFFIN. When the Senator says that the industry shall be accorded uniform treatment, he is not suggesing, is he, that the gathering lines should be subject to the same standards, necessarily, as are the transmission and distribution lines?

Mr. LAUSCHE. No; that is correct. We discussed that point a moment ago. The regulations shall be drafted in accordance with the danger involved. If the gathering lines do not create as great a condition of danger as the distribution lnes——

Mr. GRIFFIN. There will be different standards?

Mr. LAUSCHE. There will be different standards.

Mr. GRIFFIN. The Senator from Ohio is making the point that if it is decided as a matter of policy that the industry should be regulated, the whole industry should be regulated, and a part of it should not be exempt.

Mr. LAUSCHE. Yes. I yield the floor.

Mr. MONRONEY. Mr. President, I oppose the amendment offered by the distinguished senior Senator from Ohio.

Mr. COTTON. Mr. President, will the Senator, before he starts, yield briefly for a question?

Mr. MONRONEY. I am happy to yield.

Mr. COTTON. In the colloquy between the distinguished Senator from Oklahoma and the distinguished Senator from Ohio, which covered the subject so well, one point stood out in the mind of the Senator from New Hampshire, and I should like to have the Senator's judgment on it. I can understand why the Secretary said, "Yes, sir." I cannot imagine any public official saying, "No, sir," because someone would immediately accuse him of evading his duty.

The enforcement of regulations and the making of decisions in individual cases having such diversified situations is almost like the situation of a city water department. It is charged with watching over and maintaining water mains, but not with going into everybody's bathroom to see if the plumbing is correct.

Is that not one reason for considering this legislation, that we may examine into conditions in advance, before we impose on the Department the burden and the difficulty of handling all the different, individual cases that may arise?

Mr. MONRONEY. That is true. It is not a minor matter, when we consider that 71,000 miles of pipeline are spread throughout the country. One of the important factors is the pressure when the gas is moving, and that is understood best by those who are familiar with gas transmission.

This gas is the result of drilling in the Hugoton gasfield in Kansas, Oklahoma, and Texas, and in dozens of small fields in the Kiamichi Mountains in Oklahoma,

and in old oilfields that still produce a tiny flow of gas that is so precious.

Instead of being flared in the open air, it is gathered by conservationists, put into pipes at low pressure, and later cooled with other gas so that there is enough to feed into the gathering lines headquartered at pressurization points.

The gas goes from these small lines into the 36-inch, Big Inch line, where the danger because of the pressure is quite significant.

The Senator was good enough to quote from the report on the 62,000 miles reported by the 5-year survey made by the gas-producing industry. I believe he said that 41 percent operate at more than 200 pounds' pressure. I believe that is the way the report states it, that 41 percent operate at more than 200 pounds' pressure.

That is one way of stating it. I would say that 59 percent operate at less than 200 pounds' pressure. So, we have well over half of them operating at less than 200 pounds' pressure.

What does this mean? This compares with operating pressures that run up to 1,300 pounds per square inch. That is why they were able to make a very distinct and very good case in behalf of the long interstate transmission line.

Because of the proximity and the danger from the distribution lines that run under our metropolitan cities, that run under the city of Cleveland, an explosion in a crowded area could cost dozens of lives under certain atmospheric conditions.

These are clearly evident and demonstrable facts that we did not have to take too much testimony on, although it is repeated a number of times—facts that establish a basis for the regulation of gas pipelines. The title of the bill is "Safety Regulations for Transportation of Natural Gas."

There are pipelines and pipelines. I must say that I do not believe, for one, that we ought to go out willy-nilly and regulate just for the sake of regulating, or regulating because the baby member of the family might be as dangerous as the 23-year-old or the giant fullback that might come from this great Ohio State team that the distinguished Senator from Ohio is so proud of.

It is the difference between a small, tiny source of gas that is brought hundreds of miles over 71,000 miles of gathering lines to get the supplies that feed into perhaps less than 25 interstate trunklines. That is why we have a lot of gas in the East.

We built the Big Inch pipeline to supply oil to the east coast. It now supplies the gas for the tanks and planes because the producers and distributors bought the Big Inch line and converted it to a gas line.

It covers much of the gaslines. They parallel the country with these lines.

This is an entirely different business. We might as well compare the gas gathering business with a chicken hatchery, an A. & P. or a Safeway Store, or other establishments of that kind. They take gas from thousands and thousands and thousands of gas wells, each connected with their small pipe. They deliver this gas to the gathering stations and then on into the giant transmission line to fill the needs of the various cities.

The accident rate, I may say, in this area is good. One accident is too much, but we have to go back for more than 5 years to find any accidents worthy of reporting. We had one fatal accident just beyond the 5-year period—5 years and 3 or 4 months. We had one fatal accident in all of the 62,000 miles of lines that could be surveyed and checked. There have been two smaller, nonfatal accidents, minor accidents, in this entire system during that time. One of the reasons, I say, is because of the low pressure.

Now, why is this pressure low? Why is it a distinct problem? The transmission lines have to operate under high pressure to deliver the vast thousands of cubic feet of gas which are consumed every 24 hours in our great eastern cities. So these lines are under constant pressure, the maximum that the pipeline can withstand, because the greater the pressure, the more thousand cubic feet of gas you can deliver. Not so with the gathering lines. The gathering lines are put in when the gas well comes in, when the discovery of gas is made. Then it is instantly hooked up, or as soon as possible, to the wellhead connection and, by the series, run to the gathering station. If the gathering station has not been built, the well is shut in until it is built, and other gas wells are drilled.

So, with 30, 40, 50, 100, or 150 small pipelines, about 2 to 4 inches in diameter, running into the gathering station, this is the way the gas is finally put together, put under tremendous pressure, to force it, under 1,300 pounds per square inch, for delivery.

I might say, in passing, that we have found a new use for airplane jet engines, and many of these jet engines are working long hours each day to produce the pressure to deliver this gas to the cities of the East.

Against this 1,300-pound transmission line pressure, you have 59 percent of the gas gathering lines, as I said earlier, operating at less than 200-pound pressure.

Now let us look at the territory. Most of the transmission lines run either through or on the edge of our vast cities as they go to the market. They run under highways; they run under populated suburban areas. One of the reasons for this bill, given by the distinguished Secretary of Transportation, was that the urban sprawl of our cities—not only our great metropolitan cities, but also the smaller cities—has pushed out real estate additions. New homes are built out to the very edge of or over these mammoth 36-inch, 30-inch, or 24-inch transmission lines, under the high pressure of 1,300 pounds per square inch. This is why this bill is necessary—to regulate and to detour around the cities, to perhaps remove some of the dangers of the high pressure lines going under additions, or even under small suburban communities that now probably have 10, 20, or 30,000 population.

The point I make is that this pressure is constant. It goes on all the time.

We had testimony about the wornout pipes in city distribution systems; systems that had been in use for 20 or 30 years, had rusted out and were not capable of withstanding the higher pressures of principal domestic supply lines. Peculiar to this industry is the fact that when a gas well is brought in and the connecting line is connected to the gas well, at that point, when the pipe is the newest, the level of pressure is the highest. As the well is produced, the pressure goes down.

So, regardless of the age of the pipe—although it should be inspected and is inspected by all the competent companies producing gas of which I know—the safety becomes greater the longer the well produces, because the pressure is lessened. The rock pressure, so valuable in extracting gas from 5,000 feet or more underground, goes down, and thus the pressure is lessened on these older gathering lines about which the Senator is so concerned.

So I believe that this is a distinctive difference between the lines that are always maintained at the highest possible pressure.

It seems to me that we have done the proper thing, the only thing that I believe would be logical in the situation, to direct the Secretary of Transportation—I have great confidence in him, in his capability, his honesty, and his courage—to take a look at this matter for a year and find out what the situation is, instead of guessing, as somebody did, who made the inclusion of the gathering systems, without knowledge or without the ability to put reasons into the hearings, and then to come back in a year and give us what they recommend.

I, for one, believe that if they do that, we will find the gathering systems ready, willing, and able to make whatever corrections are absolutely necessary, so that we can comply fully with the law. It may cost money. If it does, the gas gathering people are willing to pay the money, because it is a part of the expense of operation. It is a part of the necessary upkeep of the lines. If the lines are found inferior, they will be corrected. But, certainly, the companies should not be made to plan on unreasonable expenses until the need for them is clearly demonstrated.

I should like to mention another point, which has not been mentioned by the opponents of this bill, but it is brought out by the fulmination of the Washington Post this morning in an editorial about the gathering lines. The editorial states:

> The "gathering" lines—the links between well heads and distribution points—were exempted in the bill reported out by the Committee on the mistaken assumption that they are to be found only in very lightly populated rural areas and therefore involve little danger. But in point of fact there are 243 gathering lines in the metropolitan Los Angeles area alone and several that run under the city of Cleveland.
>
> If the Senate is really concerned about protecting the public against gas pipeline explosions and fires, it will strengthen the bill reported out by the Commerce Committee by adding criminal penalties for willful violators and bringing all pipe lines under the safety net.

Now, what is the fact? The plain, simple fact is that the gathering lines do

not exist for gaslines in the city of Los Angeles. In the city of Los Angeles, by their ordinance, all wells are drilled directionally from a central location, at which are located up to 20 wells. In other words, what I am trying to say is that, as they say in the oilfields, they "whipstock" the well.

They have one central wellhead, and then they drill at angles. So they will be in 20 different areas, 5,000 or 6,000 feet below the ground, in Los Angeles, and produce from 20 areas, without any pipelines at a central wellhead, to extract the gas from these 20 wells. This, I might point out, goes from the central point directly into an 8- to 10-inch transmission line, not a gathering line. Because of the central location of wellheads, there is no need for gathering lines from scattered well locations going to a central point. Hence, this is not necessarily required.

As to the statement about the 243 gathering lines for natural gas, of which the Washington Post makes so much, the statement happens to be slightly wrong. They happen to be oil wells, not gas wells, and a transmission line for oil is already regulated by the Department of Transportation; and oil is much easier to carry through pipelines and through cities, with less danger.

A little gas comes up, but this is at low pressure and can easily be skimmed up.

The fact is that the editorial writer did not bother to distinguish between the 243 oil wells and the gas wells in the magazine from which he took his figures. If he read further, he would have learned how many barrels of oil a day the well is producing. There was no mention of whether they were producing any significant amount of gas or not.

We have pretty good regulations in the city of Los Angeles. I am told that safety regulations in Los Angeles are very stringent. The California Public Utility Commission has already regulated production, and this is a State function, which would be violated to a degree by the building of gathering lines.

If reason is clearly shown that this Federal legislation is needed for safety as a part of interstate commerce, I would be for it.

I understand that the lines which are supposed to run under the city of Cleveland, are very, very old lines. We learned through Mr. R. A. Middlestat, manager of gas supply, East Ohio Gas Co., that his company gathers no gas within the city limits of Cleveland. They do gather some gas in the Lakewood area from very old low-pressure wells, most of which produce into a 1-pound-per-square-inch system.

This is the other great risk which I presume, after thorough research by the Washington Post, has been shown to be great without knowing whether it is necessary, needed, or what the problem is. I much prefer to go along with my distinguished colleague on the committee, the Senator from New Hampshire [Mr. COTTON] who put in section (f) of the bill which provides:

(f) Not later than one year after the date of enactment of this Act, the Secretary shall report to the Congress on the need for Federal safety standards for gathering lines for the transportation of gas, together with such recommendations as he deems advisable.

If there is any critical, crying need or apparent danger I am sure the distinguished Secretary will speed up his 1 year because it reads "not less than." He makes his recommendations to the Committee on Commerce, of which the distinguished, competent, and able Senator from Ohio and the distinguished senior ranking minority member serve. The Senator from Oklahoma hopes to be there to hear the case and get information which is more than a "yes, sir" in answer to any question with respect to the favorable inclusion of gathering lines in the bill.

I yield the floor.

Mr. LAUSCHE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUSCHE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HRUSKA (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Kentucky [Mr. MORTON]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Oregon [Mr. MORSE]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. JORDAN], the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Virginia [Mr. SPONG], the Senator from Maryland [Mr. TYDINGS], the Senator from Ohio [Mr. YOUNG], and the Senator from Virginia [Mr. BYRD] are absent on official business.

I also announce that the Senator from Indiana [Mr. BAYH], the Senator from Connecticut [Mr. DODD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Texas [Mr. YARBOROUGH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Alabama [Mr. SPARKMAN], and the Senator from New Jersey [Mr. WILLIAMS] are necessarily absent.

On this vote, the Senator from Virginia [Mr. SPONG] is paired with the Senator from New Jersey [Mr. WILLIAMS]. If present and voting, the Senator from Virginia would note "nay" and the Senator from New Jersey would vote "yea."

On this vote, the Senator from Nevada [Mr. CANNON] is paired with the Senator from South Carolina [Mr. HOLLINGS]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from South Carolina would vote "nay."

On this vote, the Senator from Connecticut [Mr. RIBICOFF] is paired with the Senator from West Virginia [Mr. RANDOLPH]. If present and voting, the Senator from Connecticut would vote "yea," and the Senator from West Virginia would "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from Tennessee [Mr. BAKER], the Senators from California [Mr. KUCHEL and Mr. MURPHY], the Senator from Kentucky [Mr. MORTON], and the Senator from Pennsylvania [Mr. SCOTT] are necessarily absent.

The Senator from Iowa [Mr. MILLER] is absent on official business.

The Senator from Oregon [Mr. HATFIELD] and the Senator from North Dakota [Mr. YOUNG] are detained on official business.

If present and voting, the Senator from Colorado [Mr. ALLOTT], the Senator from Oregon [Mr. HATFIELD], the Senator from California [Mr. MURPHY], and the Senator from North Dakota [Mr. YOUNG] would each vote "nay."

The pair of the Senator from Kentucky [Mr. MORTON] has been previously announced.

On this vote, the Senator from Pennsylvania [Mr. SCOTT] is paired with the Senator from Iowa [Mr. MILLER]. If present and voting, the Senator from Pennsylvania would vote "yea," and the Senator from Iowa would vote "nay."

The result was announced—yeas 37, nays 32, as follows:

[No. 314 Leg.]

YEAS—37

Aiken	Hart	Mondale
Boggs	Hayden	Muskie
Brewster	Holland	Nelson
Brooke	Inouye	Pastore
Burdick	Jackson	Pell
Case	Javits	Percy
Church	Jordan, Idaho	Proxmire
Clark	Kennedy, Mass.	Russell
Cooper	Kennedy, N.Y.	Symington
Ervin	Lausche	Talmadge
Fong	Long, Mo.	Williams, Del.
Griffin	Magnuson	
Gruening	Metcalf	

NAYS—32

Anderson	Fannin	Montoya
Bartlett	Hansen	Moss
Bennett	Harris	Mundt
Bible	Hartke	Pearson
Byrd, W. Va.	Hickenlooper	Prouty
Carlson	Hill	Smathers
Cotton	Long, La.	Smith
Curtis	McClellan	Stennis
Dirksen	McGee	Thurmond
Dominick	McIntyre	Tower
Ellender	Monroney	

NOT VOTING—31

Allott	Bayh	Cannon
Baker	Byrd, Va.	Dodd

Eastland	McCarthy	Sparkman
Fulbright	McGovern	Spong
Gore	Miller	Tydings
Hatfield	Morse	Williams, N.J.
Hollings	Morton	Yarborough
Hruska	Murphy	Young, N. Dak.
Jordan, N.C.	Randolph	Young, Ohio
Kuchel	Ribicoff	
Mansfield	Scott	

So Mr. LAUSCHE's amendment was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUSCHE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I send an amendment to the desk, and ask to have it stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Indiana will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 19, after line 13, add a new section 11 as follows:

"CRIMINAL PENALTY

"SEC. 11. Any person who knowingly and willfully violates any provision of section 6(a) or any regulation issued under this Act, and whenever any corporation violates any provision of section 6(a) or any regulation issued under this Act, any director, officer, employee, or agent of such corporation who knowingly and willfully authorized, ordered, or performed any of the acts constituting in whole or in part such violation, shall be fined not more than $50,000, or imprisoned not more than one year, or both."

Renumber the succeeding sections accordingly.

On page 11, line 17, delete "9 and 10" and substitute "9, 10 and 11".

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, will the Senator yield to me, without losing the floor?

Mr. HARTKE. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the distinguished Senator from Indiana starts to explain his amendment, there be a time limitation of 30 minutes, the time to be equally divided between the Senator from Indiana [Mr. HARTKE] and the manager of the bill, the Senator from Washington [Mr. MAGNUSON].

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARTKE. Mr. President, my amendment, which is at the desk, is a very simple amendment. It is not difficult to understand. It is not difficult for Senators to make up their minds how they want to vote on it.

I am asking that criminal penalties be provided in the bill. The bill does not at the present time contain provisions for any criminal penalties if any person knowingly and willfully does an act which would cause a pipeline to be in such condition that it could cause death or injury.

That is about all there is to the amendment. It is a very simple one. It provides for a penalty either in fine or going to jail for 1 year, or both.

This natural gas pipeline safety legislation covers some 800,000 miles of transmission and distribution pipelines. The suppliers, contractors, and owner-operators of these pipelines run into the hundreds. Competition with other industrial sources of power, from electricity to coal, is strong. Cost of operation becomes a matter of closest scrutiny. The kinds of potential situations which may tempt persons to knowingly violate a construction, inspection, or operational standard must number in the thousands. Such violations may result in pipeline ruptures and explosions which could incinerate hundreds of innocent people and destroy a great deal of property. This legislation should contain adequate penalties to discourage any persons who may succumb to such temptations to disregard knowingly provisions for the public's safety.

I think it might be of interest to know that on the very day that we reported this bill, in the city of Washington, D.C., itself, the Georgetown University, in the middle of the morning, had an explosion in which the entire floor of the dining room of one of the Georgetown University dormitories collapsed. Fortunately, no one was killed. It has not been determined whether or not there was any negligence, but there is no question but that probably the factor which caused the explosion was a crack in the gasline.

The point still remains that this occurred at the very doorstep of the U.S. Senate itself.

It is important to note that only safety standards are involved, but also the establishment of requirements to provide pertinent reports and information to the Department of Transportation. Many regulatory acts enacted by Congress in the past provide for criminal penalties for knowing violations of purely economic significance. This is true, for example, of securities and other items. Disreputable securities dealers have gone to jail because they cheated investors. Legal sanctions to deter potential violators and to punish those that do violate the law knowingly, which results in the loss of human life, should at least be similar to those prevailing for the benefit of investor protection.

I should like to read, at this point, a brief list of some of the items concerning which there are criminal penalties on the books today for willful violations, similar in nature to what I propose in this amendment:

First, household refrigerators.
Second, flammable fabrics.
Third, labeling hazardous substances.
Fourth, steam boilers or vessels.
Fifth, coal mine safety.
Sixth, food, drugs, and cosmetics.
Seventh, meat inspections.
Eighth, oil pipeline safety.

The Natural Gas Act would be ninth. I frankly find it inconceivable that anyone should object to criminal penalties under this bill, when we know we have all these other measures passed by Congress, in which criminal penalties are involved. I find it inconceivable that anyone should object to criminal penalties for knowing and willful violations of vital safety standards. The administration through its spokeswoman, Miss Betty Furness, the Consumer Adviser to the President, and most segments of the natural gas industry agree that criminal penalties are necessary and just.

I might say, Mr. President, that most of these hearings at which I was in personal attendance—and as the chairman of the committee can verify, I did more than my fair share of yeoman duty in sitting and listening to witnesses in the committee's hearings—there was no industry spokesman who opposed criminal penalties. I do not say that they agreed to them, but they did agree that some regulation was needed. They did object to, and received exemption, from being classified with industrial pipelines carrying oxygen and manufactured gas.

Mr. KENNEDY of New York. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. KENNEDY of New York. As I understand, the amendment offered by the Senator from Indiana does not involve criminal penalties for simple negligence or accidents of fate, but all it involves is those who willfully and knowingly subject workers and consumers to the great dangers of unsafe pipelines; is that correct?

Mr. HARTKE. That is exactly right. The Senator from New York is correct in his assumption that the amendment applies only in the case of knowingly violating the regulations, with wanton disregard.

This is not necessarily a case of willful negligence; but these are pipes [exhibiting pieces of corroded pipe] which carried gas, which were taken out of the ground, and, as Senators can see, here is a hole approximately, I would say, 3 inches long and 2 inches wide. Senators can also see that unless there was something else around it, it would have been in pretty bad shape.

Here is another pipe which I could entirely collapse with my hand; it is all rusty. It is from another line. At one end, there is a hole about 2 inches wide, and another hole at the other end about an inch and a half by 2 inches. Here is a valve which could not be turned off. These were exhibits at the hearings.

If someone willfully and knowingly knew that such pipe was in the ground, and did not do anything about it, and its failure caused a death, I think that person should be subjected to criminal penalties.

Mr. KENNEDY of New York. I support the amendment of the Senator from Indiana. I have a few words I wish to say about it after he completes his statement.

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. I shall be happy to yield back the remainder of my time in a moment. I shall complete my statement in another minute or 2.

I thank my friend from New York for his support of this amendment.

I ask the Senate: Why then, should there be any hesitation?

I would think that anyone who argues to exempt the natural gas industry from such penalties for willful violations will have to provide further explanations for such a position other than citing an isolated precedent in a sea of existing statutes with criminal penalties. I would also think that anyone taking the position against criminal penalties would want to explain why he voted to impose such penalties on the petroleum pipeline industry for knowing violations 2 years ago. Why should the natural gas industry be exempt when the oil pipeline industry is not? If anything, natural gas has a greater potential for combustibility over a greater area than liquid petroleum which quickly reveals its presence. And would those who oppose criminal penalties in this legislation be willing to display consistency and urge repeal of all existing criminal penalties in all safety, regulatory and tax laws now in the statute books? If not, then I suggest that they are playing favorites and advocating clearly preferential legislation.

I hope the time has not come when individuals responsible for willful violations of safety standards are no longer accountable for their acts because they can hide behind the corporate curtain. If pipeline safety is serious business, then willful violations should receive serious sanctions. The cause of human life deserves the assurance that the law will provide adequate deterrents and punishments for those who might callously abuse the public safety.

Mr. President, I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, any legislation, which provides for the protection of human life, should also include appropriate penalties for violations. This means that the agency empowered to administer and enforce the provisions of such legislation should have a flexible choice of penalties available to it so that the severity of the penalty can be tailored to the severity of the violation. Knowing and willful violations of natural gas pipeline safety standards cannot be adequately dealt with by civil monetary fines. Such violations, should they ever occur, can lead to the death or maiming of many persons owing to a pipeline explosion. Criminal penalties, as are written into other safety legislation, are necessary to deter such willful acts from arising. And where these acts do arise, such penalties are needed to bring justice to the public safety.

Criminal penalties exist for conscious violation of oil pipeline standards which are to be established by the Department of Transportation. The Commerce Committee approved such penalties when it passed on the oil pipeline safety in 1965. About a year later, both the oil and natural gas industries requested before our committee the inclusion of criminal penalties for anyone who steals from interstate pipelines. The maximum penalty for stealing, for example, $2,000 worth of petroleum from a pipeline is 10 years in jail and a $5,000 fine. This penalty for an essentially economic crime is far more severe than the penalty here proposed by amendment for a crime that may endanger or actually take human life. The Natural Gas Act has criminal penalties for economic crimes. Why, I ask, should this bill not have a criminal penalty? I do not believe any industry should be in a privileged, preferential position whereby knowing and willful violations escape an appropriate sanction.

When the administration sent their legislative proposal on natural gas pipeline safety to the Senate earlier this year, criminal penalties were included. The natural gas pipeline industry did not object to criminal penalties during our hearings. In fact, they recognized the need for some criminal penalties. Some industry officials positively recognized the need to apply the criminal law to anyone who knowingly exceeds the maximum pressures allowed in a pipeline—to cite one example. They realize how unfair and unjust it is to their industry and to the public safety to permit any such outrageous behavior to go unpunished except for a dollar fine.

The Senate has recently passed substantial amendments to the Flammable Fabrics Act which has criminal penalties. Other safety acts, from drug laws to interstate motor carrier safety, contain criminal sanctions. The reason for such sanctions is overwhelmingly obvious. No one should knowingly and willfully violate a safety law without being bought to justice under the criminal law. Otherwise, the law has blunted teeth and the law's administrator has too little legitimate enforcement tools to do his job in protecting the public. As Congress recognized in the oil pipeline safety legislation and in the pipeline theft bill, the criminal penalty is a major deterrent to knowing violations. Exactly the same is true for natural gas pipeline safety. I strongly urge the adoption of this amendment as one which furthers the safety purposes of the legislation and provides the basis for just and effective enforcement.

I yield to the Senator from Louisiana.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. MAGNUSON. I yield 5 minutes to the Senator from Louisiana.

Mr. LONG of Louisiana. Mr. President, there are more than 10,000 deaths from automobiles for every death that occurs from a gas pipeline.

No one ever deliberately or intentionally builds a defective pipeline. If a pipeline is defective, it is because someone made a mistake. It is bad business; no one would want to do it, but it sometimes happens.

But if a pipeline blows up, Mr. President, as occasionally occurs—it has happened in Louisiana, and could happen elsewhere—the whole community sometimes sues the pipeline company for negligence.

At that point, it is very much to the advantage of everyone in the community who suffered in any respect whatever, directly or indirectly, to find the company liable, to find that there was negligence, that the company should have known, and that something should have been done to prevent it.

Criminal liability in this bill is unfair because if these people could be brought into court and found criminally liable, then in a civil suit they would be virtually automatically liable for damages. This would give the entire community a chance to join together against some poor, unfortunate, out-of-State defendant who is unable to defend himself against criminal liability and the community would have the knowledge that if the defendant is criminally liable, he will lose a civil suit.

Nothing of that sort was done with respect to a defective automobile in the automobile safety bill, even though the Senator from Indiana, in whose State automobiles are manufactured, did urge the Senate to put criminal penalties on anyone who manufactured defective automobiles or automobile parts. The Senator is consistent. However, the Senate, by an 8-to-1 margin, I believe, thought that would be unfair because no one deliberately manufactures an unsafe or defective automobile or automobile part.

We did not do anything of that sort with respect to people who manufacture parts for locomotives or Pullman cars. We did nothing of that sort with respect to someone who manufactures airplane parts.

We recognize that a manufacturer owes a responsibility for negligence, but no one knowingly undertakes to provide facilities which would endanger the lives of other people.

Why would we want to do anything of this sort if we did not do it for any other form of transportation—automobiles, airplanes, railroads, steamships?

Why should we single out one industry, which is not the big killer?

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. DIRKSEN. The committee upheld this with reference to civil penalties. There is provision in the bill for a civil penalty of not to exceed $1,000 for each violation and it may go to an amount not to exceed $400,000 for any related series of violations.

We then have the normal flexibility in that a tort action can be filed at any time. I do not know what more we have to do in respect of the enforcement of a bill like this.

I do not know exactly why we have to put the finger on people by using the words knowingly and willfully and make it appear that the act is a criminal act.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that I may be permitted to continue for an additional 5 minutes.

Mr. MAGNUSON. Mr. President, I yield 3 additional minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 3 additional minutes.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LONG of Louisiana. Mr. President, with respect to criminal sanctions, we must realize that we are talking about a situation in which practically all of those who lay pipes are corporations. Everyone knows that we cannot put a

corporation in jail. All we can do is levy a fine against the corporation.

What is the difference then between that and a civil penalty action, where one sues to find someone negligent and liable for damages? The only real difference is that once in a long while with regard to something like these little gathering lines—which were never intended to be put in the bill, but were put in the bill by a committee vote—some poor, unfortunate soul finds himself doing business as an individual rather than as a corporation. He is in a position therefore to be punished and crucified because of the most inconceivable possible prejudice merely because he is a little fellow who did business in his individual name and did not possibly conceive that Congress might pass some legislation such as this with a criminal penalty. Nevertheless, they put him in jail as a criminal and make him liable for damages which he may have no way of paying because he does not have that kind of net worth.

If it is the judgment of Congress that no other form of transportation should bear criminal penalties, I submit that it should not be the judgment of Congress that this particular industry should bear criminal penalties. It is an industry in which serious injuries would be done to the very little people who did business in their own name rather than as corporations.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 1 additional minute.

Mr. LONG of Louisiana. Mr. President, we did not do this to anybody else. I would hope that we will not do it to this industry. I believe in fairness that we should vote against doing it to any industry under these circumstances.

We have considered this problem before in the committee, and we voted down the suggestion by an overwhelming vote, by, I believe, a vote of 5 to 1.

The Senate also voted a similar suggestion down by an overwhelming vote on the automobile safety bill.

I hope the Senate will follow that same precedent here.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. MAGNUSON. Mr. President, when I agreed to the unanimous-consent request, I did not realize that so many Senators wanted to talk on this subject.

I ask unanimous consent that each side be granted an additional 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MAGNUSON. Mr. President, I yield 3 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 3 minutes.

Mr. GRIFFIN. Mr. President, I rise to express my hope that the pending amendment will be rejected.

We are once again plowing new ground and imposing regulations in an area where we want the cooperation of industry and where there is every indication to expect that industry will cooperate.

Frankly, the case for safety regulations presented during committee consideration and floor debate has not been a strong case. The number of accidents and deaths in the transmission and distribution of gas is not a startling or bad record. In general, the industry has a good record.

I think that in this legislation we are primarily concerned with the potential danger and hazards that may confront us.

As a member of the Commerce Committee, I have gone along with the legislation and supported it. I supported the amendment of the Senator from Ohio [Mr. LAUSCHE] to include gathering lines because I do not think any particular segment of this industry should be excluded. But I hope that the Senate will not take the unusual and almost unprecedented action of imposing criminal sanctions in this particular legislation.

In our consideration of this matter, we should keep in mind that the amendment of the Senator from Indiana [Mr. HARTKE] calls for criminal penalties not only for a violation of the statutory language itself, but also for a violation of the regulations to be promulgated in the future by appointed officials.

I realize this has been done before, but frankly I think we have gone too far in delegating legislative authority with respect to civil matters and by allowing appointed bureaucrats to frame and enact criminal provisions. I believe this is a questionable procedure under any circumstances. It is bad public policy in an area such as this, where we are moving into a new field and trying, in the public interest, to get the cooperation of an industry. I believe that we will get better cooperation, we will have more safety, if we move cautiously and rely, at least in the first instance, on civil remedies.

We can always review this legislation again in 5 years and see how it has worked. If at that point it seems desirable and necessary to impose criminal sanctions, then I believe that would be the time to do it, not now.

Mr. HARTKE. Mr. President, will the Senator yield on my time?

Mr. PROUTY. I yield.

Mr. HARTKE. I should like to ask a simple question: If a schoolhouse had a pipeline such as this under it and an employee knew that pipeline was in this condition and did not do anything about it, and it blew up the schoolhouse, how quickly would we have criminal penalties? So quickly that it would make our heads swim. If a man knew a pipe was in this condition and did not do anything about it, something should happen to him.

Mr. PROUTY. The answer to the question of the Senator from Indiana is that his amendment goes much further than that. His amendment deals in terms of violation of regulation to be promulgated. Now he is talking about compliance with very technical codes which require technical knowledge to devise and to promulgate these regulations. There can be differences of opinion as to whether or not there is compliance.

An officer of a corporation may knowingly and willfully disagree with the interpretation of a regulation, but the Senator is saying in effect, by putting in this language, that the officer does that at the risk of going to jail, even though he may have a good faith difference of opinion.

Mr. HARTKE. The same is true with respect to the pure food and drug law.

Mr. PROUTY. I have said that I believe we have gone too far in many of these instances. We have given unnamed bureaucrats the power at times to harass and abuse, when they should not have that power.

Mr. HARTKE. It applies to food; to aircraft, concerning air worthiness certificates; interference with navigation.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. HARTKE. I yield to the Senator from New York.

The PRESIDING OFFICER. How much time does the Senator from Indiana yield to the Senator from New York?

Mr. HARTKE. I yield 2 minutes.

Mr. KENNEDY of New York. Mr. President, I rise in support of the amendment of the Senator from Indiana.

In my judgment Senate bill S. 1166—the Natural Gas Pipeline Safety Act—is a welcome step in the protection of the public from the grave dangers proposed by unsafe pipelines. Those of us who remember the narrow escape of hundreds of Brooklyn residents last winter, when a gas main exploded, are well aware of the need for this protection. With the effort of the Secretary of Transportation, and with cooperation from the natural gas industry—one of the most safety conscious of all industries—citizens can be assured of the greatest possible protection.

There are, however, two omissions in this bill which I believe require adjustment:

First, the exemption of gathering lines from the standards of this bill which we have just included;

Second, the omission of criminal penalties of willful violations of this act.

I fail to understand why gathering lines—those pipelines which run from individual wells to the main transmission lines—should be exempted from the reach of this act. The committee report tells us:

> Any failure of a pipe may cause major amounts of gas to be released to the atmosphere in a relatively short period of time. Any gas thus escaping which is mixed with air may ignite . . .

But this is true of gathering lines as well as transmission lines. The committee report tells us that "the age of some of the pipeline throughout the country" contributes to the risk of death and injury. But this is true of gathering lines as well; in fact, because of the temporary nature of these pipes, gathering lines are often far less sturdy and far more subject to failure than the larger transmission lines.

With more than 63,000 lines of gathering pipelines which range throughout 25

States, and with more than a dozen States having no jurisdiction whatsoever over these lines, it is hard to understand why Federal protection should not extend to gathering lines. And when we remember that these lines run through major metropolitan areas such as Los Angeles—when we remember that thousands of workers are threatened by unsafe gathering lines running beneath the fields in which they work—I think we owe it to millions of Americans to afford the best possible protection. And I am happy we have adopted the Lausche amendment.

A second shortcoming of S. 1166 is that it does not provide criminal penalties for willful violations of this act. We are speaking now as I believe the Senator from Indiana has pointed out, not of simple negligence, not of accidents of fate, but of those who willfully and knowingly subject workers and consumers to the grave dangers of unsafe pipelines. Over the period of years between January 1950 and August 1965, 64 deaths and 225 serious injuries occurred because of pipeline accidents and it was only through good luck—such as on Long Island last winter—that this toll did not increase greatly. The men who run the natural gas industry are not corporate fictions; they are individuals whose judgment and whose sense of public responsibility can affect the lives and safety of literally millions of Americans. If these men deliberately subject the public to mortal danger, why should they be exempted from responsibility?

Executives in industry, labor and government are criminally responsible for fraud and tax evasion, and for violation of Government imposed standards. Why should men go to jail for depriving shareholders and consumers of money, yet be exempted from criminal penalties for threatening their safety and their lives?

In my judgment, if the strict standards of criminal responsibility are met, then those who are guilty of willful violations of this important act should bear the price of that guilt.

Mr. President, I support S. 1166. But I believe it would be a better bill if these two omissions were corrected.

At this time I wish to commend the Senator from Washington for the unprecedented effort he has made on behalf of consumers while he has served in the Senate. The work and effort he has devoted to this measure is another indication of his leadership in this body.

Mr. MAGNUSON. I thank the distinguished Senator from New York.

Mr. President, I yield the remainder of my time to the Senator from Oklahoma.

Mr. MONRONEY. Mr. President, I rise in opposition to the amendment of the distinguished Senator from Indiana. The Senator has compared the gas line industry with a number of other types of transportation. I am at a loss to see the cogency of his argument.

As a matter of fact, I know of no airline presidents or airline board of directors who are subject to or would be prosecuted for an air accident or an air mishap under the terms of legislation affecting them.

I am certain that railroad officials and others connected with the direction of this vital means of transportation are not subject to the penalties he would impose upon the executives and the men who plan and engineer the pipelines of this great Nation.

Automobiles in great numbers cruise the highways at speeds in excess of 70 and 80 miles an hour, and I am certain that the officials and workers of that industry are not subject to the criminal penalties the Senator would seek to impose upon the executives or management or workers of the gas industry.

I am also certain that the busline operators are not subject to a restriction such as he would attempt to impose upon the gas industry.

Therefore, I wonder why the gas industry is so vicious in his mind that he wishes to make criminal penalties apply to accidents in an industry which represents perhaps one of the finest examples of safety that I have ever seen.

The National Safety Council, in its statistics for 1966, indicates that there were 113,000 accidental deaths in the United States from all causes. These are their figures. I hold in my hand a graph showing the comparison of figures.

Motor vehicles—53,000 deaths in 1966. Yet, the manufacturers, the repairmen, the servicemen, and the drivers themselves are not subject to criminal penalties, under the legislation that has recently been passed, such as the distinguished Senator from Indiana would impose on the management and others in the gas industry.

Home accidents: I do not believe any criminal provision would apply to a husband because of a home accident to a child or his wife or a member of his family. These accidents are second in number and total some 29,500 deaths.

No such law applies to officials of the air industry, in which I am vitally interested. It applies only to the wilful violation of certification of airworthiness, and this is taken care of in an injunctive manner, about which I shall speak later.

Water transportation: There were 1,100 fatalities in 1966, and only for the use of boilers that already had been found defective are people subject to criminal prosecution.

No such penalties apply to the railroad industry, according to the best staff work I have been able to obtain, and that industry had 800 fatalities in 1966.

Bathtub fatalities number 200; yet, I do not believe I have seen the Senator from Indiana introducing a bill to make the executives or the dealers in the bathtub industry criminally liable.

Lightning fatalities totaled 194 for 1966.

Why should we rush in at this late date to say, before we know anything about the subject, "We are going to make you subject to criminal penalties unless you can"—and this is perhaps the way it works—"prove that you did not knowingly or willfully plan this accident or permit willfully and knowingly a deficency in equipment of thousands of miles of line and pipe that may have rotted underground?"

I think the record of the entire industry does not justify it, and that goes for gathering, distribution in the cities, and the long-line transmissions of some 17.5 trillion cubic feet of gas each year. Of course, even one fatality is too many, but I think the industry is to be congratulated, with all of this activity in all of the States and the transmission from the wellheads to tens of millions of homes from Maine to Florida. Their rate of fatalities was less than four for the year 1966. The pipeline fatalities numbered two for the general public and two employees. On a 15½-year scale the average has been less than four for the entire period.

Yet we are told that this is such a crisis we cannot wait until we get the regulation that they are going to be found criminally liable for violating under the amendment of the Senator from Indiana.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MONRONEY. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

Mr. MAGNUSON. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Washington has no time available.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senator from Oklahoma be permitted to proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONRONEY. Mr. President, this matter is covered in paragraph (b) of section 10 of the bill, where it is provided:

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this Act, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

Certainly this injunctive provision for criminal punishment where the accused has been proven to have violated any order that is made in connection with improvement, removal, or change of equipment used, or in the operation of the transportation of gas, or operation of a pipeline facility is a proper safeguard rather than by having a man harmed by some bureaucrat who is 1,500 miles from the scene of the accident, did not know anything personally about the condition of the pipe, and only by having the advice of subordinates reaching down through the many States.

This bill places the blame where it belongs where an injunction is made and received against a gas transportation or distribution company; then, if any member or official in charge violates that injunction he is subject to criminal violation and can be held in jail until the defective parts found by the inspector have been replaced by that company.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. MONRONEY. I yield.

Mr. DIRKSEN. I wish to point out, in line with the Senator's argument, that if an action for criminal penalty is undertaken the case has to be proved beyond reasonable doubt, whereas in any other case the weight of the evidence is all that is required. So why take a chance and go to all this trouble, and include criminal penalties in a bill of this kind? These people are not criminals. They are well intentioned businessmen. Willingly and knowingly they would not for a moment violate any safety factor or regulation. Yet we come along and try to put a criminal brand on them, which I deem to be unfair.

Mr. MONRONEY. The record of four accidents in the entire United States is indicative of the fact that they have been conscious of safety requirements. An average like this one does not happen accidentally when one considers the trillions of cubic feet of gas that are distributed in all of the States. Yet before we get around to formulating regulations it is urged to hit everybody from officials down to ditchdiggers with criminal penalties for presumption of guilt. That provision is not needed when there is provided criminal injunctions which can be properly applied for in the event of the willful violation of any order condemning or prohibiting further use of a portion of that facility.

I yield the floor.

Mr. MAGNUSON. Mr. President, unless other Senators wish to speak, I yield back the remainder of my time. The yeas and nays have been ordered.

Mr. HARTKE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Indiana [Mr. HARTKE]. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote, I have a pair with the distinguished Senator from Kentucky [Mr. MORTON]. If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. BYRD of West Virginia (after having voted in the affirmative). On this vote, I have a pair with the distinguished Senator from Oregon [Mr. MORSE]. If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

I announce that the Senator from Nevada [Mr. CANNON], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. JORDAN], the Senator from Oregon [Mr. MORSE], the Senator from Maryland [Mr. TYDINGS], and the Senator from Ohio [Mr. YOUNG] are absent on official business.

I also announce that the Senator from Indiana [Mr. BAYH], the Senator from Connecticut [Mr. DODD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Florida [Mr. SMATHERS], the Senator from Alabama [Mr. SPARKMAN], and the Senator from Texas [Mr. YARBOROUGH], are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. CANNON] would vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from Tennessee [Mr. BAKER], the Senators from California [Mr. KUCHEL and Mr. MURPHY], the Senator from Kentucky [Mr. MORTON], and the Senator from Pennsylvania [Mr. SCOTT] are necessarily absent.

The Senator from Iowa [Mr. MILLER] is absent on official business.

If present and voting, the Senator from Colorado [Mr. ALLOTT], the Senators from California [Mr. KUCHEL and Mr. MURPHY], the Senator from Iowa [Mr. MILLER], and the Senator from Pennsylvania [Mr. SCOTT] would each vote "nay."

The pair of the Senator from Kentucky [Mr. MORTON] has been previously announced.

The result was announced—yeas 31, nays 44, as follows:

[No. 315 Leg.]

YEAS—31

Aiken	Hayden	Moss
Bartlett	Inouye	Muskie
Bible	Jackson	Nelson
Brewster	Kennedy, Mass.	Proxmire
Burdick	Kennedy, N.Y.	Randolph
Byrd, Va.	Long, Mo.	Smith
Case	Magnuson	Spong
Church	McGee	Symington
Clark	McIntyre	Williams, N.J.
Gruening	Metcalf	
Hartke	Mondale	

NAYS—44

Anderson	Hansen	Montoya
Bennett	Harris	Mundt
Boggs	Hart	Pastore
Brooke	Hatfield	Pearson
Carlson	Hickenlooper	Pell
Cooper	Hill	Percy
Cotton	Holland	Prouty
Curtis	Hollings	Russell
Dirksen	Hruska	Stennis
Dominick	Javits	Talmadge
Ellender	Jordan, Idaho	Thurmond
Ervin	Lausche	Tower
Fannin	Long, La.	Williams, Del.
Fong	McClellan	Young, N. Dak.
Griffin	Monroney	

NOT VOTING—25

Allott	Jordan, N.C.	Ribicoff
Baker	Kuchel	Scott
Bayh	Mansfield	Smathers
Byrd, W. Va.	McCarthy	Sparkman
Cannon	McGovern	Tydings
Dodd	Miller	Yarborough
Eastland	Morse	Young, Ohio
Fulbright	Morton	
Gore	Murphy	

So Mr. HARTKE's amendment was rejected.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

Mr. DOMINICK. Mr. President, I send to the desk an amendment. It is in handwritten form. If my colleagues will bear with me, I will not take more than 2 minutes.

The PRESIDING OFFICER. The amendment offered by the Senator from Colorado will be stated.

The legislative clerk read the amendment, as follows:

On page 24, line 25, strike the period and add "but not in excess of 10 million dollars for the fiscal year ending June 30, 1969; 13 million dollars for the fiscal year ending June 30, 1970; and 15 million dollars for the fiscal year ending June 30, 1971."

Mr. DOMINICK. Mr. President, I think many of us have an adverse reaction to open-ended authorizations and have been trying our best to avoid them.

All I am trying to do in this particular amendment is to put a specific authorization in the bill so the Appropriations Committee will have some knowledge of what the limitation on expenditures should be. This has been a particularly complicated matter to work out because of the way the bill is drafted.

It is my hope, or expectation, that if the Secretary puts the fee system as stated in the bill into effect, it will cost far less than the amount of authorization here proposed. It is my understanding that these figures are agreeable to the distinguished Senator from Washington [Mr. MAGNUSON], and if so, I would hope he would accept them.

Mr. MAGNUSON. Mr. President, I agree with the distinguished Senator from Colorado. It is difficult to tell how much might be needed, in view of the fact that the States may assume the program. It is hard to evaluate how many States will assume it or whether all of them will. I think the limitations suggested of $10 million for 1968——

Mr. DOMINICK. It was my understanding that probably action would be taken by the House in June, and it would go into effect in fiscal year 1969. So $10 million is provided for fiscal 1969. There would not be any authorization for fiscal 1968.

Mr. MAGNUSON. Ten, twelve, and fifteen million dollars.

Mr. DOMINICK. No; 10, 13, and 15 million dollars.

Mr. MAGNUSON. If the Federal Government should have to assume all of the State's costs—which I hope will not be the case, and I assume will not.

I think at this time I should also read into the RECORD the letter sent to me by the Secretary of Transportation yesterday. I asked him for the estimates the Senator from Colorado is talking about. The letter reads as follows:

DEAR MR. CHAIRMAN: You have asked for an estimate of the cost of a joint Federal-state implementation of S. 1166.

The bill as reported by Committee calls for a Federal preemption of interstate transmission system safety regulation. An optional control of intrastate distribution lines is provided, in which the states, pursuant to compliance with minimum Federal standards, may assume the responsibility for such regulation. If a state declines that responsibility, the Federal Government would assume it.

That is why we have the ceilings here.

The bill, furthermore, permits both the Secretary of Transportation and the states to levy fees to meet the costs of the inspection and enforcement activities required by this Act. It would be my intent to require fees for all Federal inspection and enforcement. This would, therefore, require only a small sum, approximately $2 million, from the general fund for routine administrative costs and for research.

We estimate that the total cost of enforcement and inspection for all pipeline systems throughout the country, both transmission and distribution, would be approximately

$23 million, evenly divided between transmission and distribution. As stated, we would require fees to meet the approximately $11.5 million cost—

We have changed it—

of Federal inspection and enforcement on transmission lines. This would leave $11.5 million to be raised for inspection and enforcement on distribution lines.

The bill reported by the Committee would permit the Secretary of Transportation to provide up to 50 percent, on a grant-in-aid basis, of the costs of this $11.5 million estimated cost. However, I would emphasize that this is not a minimum 50 percent contribution but a maximum.

It would be my intent to seek a formula of Federal contribution which will provide for maximum state participation. It would also be my judgment, one that I would anticipate would be universally implemented, that the states themselves would require fees for whatever costs were involved to discharge their responsibility.

In summation, it is not possible for me at this stage, without a thorough dialogue with the states, to give you a precise figure for a total Federal contribution, but I can assure you it will be a minor portion of the total of $25 million we estimate will be necessary for administration, research, inspection and enforcement on a nationwide scale.

Sincerely,

ALAN S. BOYD.

I think the department can work well within the ceilings suggested by the Senator from Colorado.

Mr. DOMINICK. I thank the Senator—and I would like to emphasize that I am not trying to inject myself into the Commerce Committee, although I had the pleasure of serving on it until this year. However, I think, as a matter of policy, wherever we possibly can, we should put specific dollar limitations in legislation rather than leaving authorization open ended.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado to the committee amendment.

The amendment to the amendment was agreed to.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MAGNUSON. Mr. President, I yield back my time.

Mr. MANSFIELD. Mr. President, I yield back whatever time I have.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada [Mr. CANNON], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. JORDAN], the Senator from Oregon [Mr. MORSE], the Senator from Maryland [Mr. TYDINGS], and the Senator from Ohio [Mr. YOUNG] are absent on official business.

I also announce that the Senator from Connecticut [Mr. DODD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Florida [Mr. SMATHERS], the Senator from Alabama [Mr. SPARKMAN], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada [Mr. CANNON], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORD], the Senator from North Carolina [Mr. JORDAN], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Oregon [Mr. MORSE], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Alabama [Mr. SPARKMAN], the Senator from Maryland [Mr. TYDINGS], the Senator from Texas [Mr. YARBOROUGH], and the Senator from Ohio [Mr. YOUNG] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from Tennessee [Mr. BAKER], the Senators from California [Mr. KUCHEL and Mr. MURPHY], the Senator from Kentucky [Mr. MORTON], and the Senator from Pennsylvania [Mr. SCOTT] are necessarily absent.

The Senator from Iowa [Mr. MILLER] is absent on official business.

If present and voting, the Senator from Colorado [Mr. ALLOTT], the Senators from California [Mr. KUCHEL and Mr. MURPHY], the Senator from Iowa [Mr. MILLER], the Senator from Kentucky [Mr. MORTON], and the Senator from Pennsylvania [Mr. SCOTT] would each vote "yea."

The result was announced—yeas 78, nays 0, as follows:

[No. 316 Leg.]

YEAS—78

Aiken	Gruening	Metcalf
Anderson	Hansen	Mondale
Bartlett	Harris	Monroney
Bayh	Hart	Montoya
Bennett	Hartke	Moss
Bible	Hatfield	Mundt
Boggs	Hayden	Muskie
Brewster	Hickenlooper	Nelson
Brooke	Hill	Pastore
Burdick	Holland	Pearson
Byrd, Va.	Hollings	Pell
Byrd, W. Va.	Hruska	Percy
Carlson	Inouye	Prouty
Case	Jackson	Proxmire
Church	Javits	Randolph
Clark	Jordan, Idaho	Russell
Cooper	Kennedy, Mass.	Smith
Cotton	Kennedy, N.Y.	Spong
Curtis	Lausche	Stennis
Dirksen	Long, Mo.	Symington
Dominick	Long, La.	Talmadge
Ellender	Magnuson	Thurmond
Ervin	Mansfield	Tower
Fannin	McClellan	Williams, N.J.
Fong	McGee	Williams, Del.
Griffin	McIntyre	Young, N. Dak.
Morse	Scott	Yarborough
Morton	Smathers	Young, Ohio
Murphy	Sparkman	
Ribicoff	Tydings	

NOT VOTING—22

Allott	Eastland	Kuchel
Baker	Fulbright	McCarthy
Cannon	Gore	McGovern
Dodd	Jordan, N.C.	Miller

So the bill (S. 1166) was passed, as follows:

S. 1166

An act to authorize the Secretary of Transportation to prescribe safety standards for the transportation of natural and other gas by pipeline, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "the Natural Gas Pipeline Safety Act of 1967".

DEFINITIONS

SEC. 2. As used in this Act—

(1) "Person" means any individual, firm, joint venture, partnership, corporation, association, State, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

(2) "Gas" means natural gas, flammable gas, or nonflammable hazardous gas;

(3) "Transportation of gas" means the gathering, transmission or distribution of gas by pipeline or its storage in or affecting interstate or foreign commerce;

(4) "Pipeline facilities" includes, without limitation, new and existing pipe, rights-of-way, and any equipment, facility, or building used in the transportation of gas or the treatment of gas, but "rights-of-way" as used in this Act does not authorize the Secretary to prescribe the location or routing of any pipeline facility;

(5) "State" includes each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico;

(6) "Municipality" means a city, county, or any other political subdivision of a State;

(7) "National organization of the State commissions" means the national organization of the State commissions referred to in part II of the Interstate Commerce Act;

(8) "Adversely affected" includes exposure to personal injury or property damage;

(9) "Interstate transmission facilities" means pipeline facilities used in the transportation of gas which are subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act; and

(10) "Secretary" means the Secretary of Transportation.

STANDARDS ESTABLISHED

SEC. 3. (a) As soon as practicable but not later than three months after the enactment of this Act, the Secretary shall, by order, adopt as interim minimum Federal safety standards for pipeline facilities and the transportation of gas in each State the State standards regulating pipeline facilities and the transportation of gas within such State on the date of enactment of this Act. In any State in which no such standards are in effect, the Secretary shall, by order, establish interim Federal safety standards for pipeline facilities and the transportation of gas in such State which shall be such standards as are common to a majority of States having safety standards for the transportation of gas and pipeline facilities on such date. Interim standards shall remain in effect until amended or revoked pursuant to this section. Any State may adopt such additional or more stringent standards for pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act as are not incompatible with the Federal minimum standards, but may not adopt or continue in force after the interim standards provided for above become effective any such standards applicable to interstate transmission facilities.

(b) Not later than twenty-four months after the enactment of this Act, and from time to time thereafter, the Secretary shall,

by order, establish minimum Federal safety standards for the transportation of gas and pipeline facilities. Such standards may apply to the design, installation, inspection, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities. Standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such standards are adopted, unless the Secretary finds that a potentially hazardous situation exists, in which case he may by order require compliance with any such standards. Such Federal safety standards shall be practicable and designed to meet the need for pipeline safety. In prescribing such standards, the Secretary shall consider—

(1) relevant available pipeline safety data;

(2) whether such standards are appropriate for the particular type of pipeline transportation;

(3) the reasonableness of any proposed standards; and

(4) the extent to which such standards will contribute to public safety.

(c) Any standards prescribed under this section, and amendments thereto, shall become effective thirty days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance.

(d) The provisions of subchapter II of chapter 5 of title 5 of the United States Code shall apply to all orders establishing, amending, revoking, or waiving compliance with, any standard established under this Act. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument.

(e) Upon application by any person engaged in the transportation of gas or the operation of pipeline facilities, the Secretary may, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, waive in whole or in part compliance with any standard established under this Act, if he determines that a waiver of compliance with such standard is not inconsistent with gas pipeline safety. The Secretary shall state his reasons for any such waiver. A State agency, with which an agreement is in effect pursuant to section 5(a), may waive compliance with a safety standard in the same manner as the Secretary, provided such State agency gives the Secretary written notice at least sixty days prior to the effective date of the waiver. If, before the effective date of a waiver to be granted by a State agency, the Secretary objects in writing to the granting of the waiver, any State action granting the waiver will be stayed. After notifying such State agency of his objection, the Secretary shall afford such agency a prompt opportunity to present its request for waiver, with opportunity for hearing, and the Secretary shall determine finally whether the requested waiver may be granted.

TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

SEC. 4. (a) The Secretary shall establish a Technical Pipeline Safety Standards Committee. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of the transportation of gas or the operation of pipeline facilities, and shall be composed of fifteen members each of whom shall be technically qualified by training and experience in one or more fields of engineering applied in the transportation of gas or the operation of pipeline facilities to evaluate gas pipeline safety standards, as follows:

(1) Five members shall be selected from governmental agencies, including State and Federal Governments, one of whom, after consultation with representatives of the national organization of State commissions, shall be a State commissioner;

(2) Five members shall be selected from the natural gas industry after consultation with industry representatives, not less than three of whom shall be currently engaged in the active operation of natural gas pipelines; and

(3) Five members shall be selected from the general public.

(b) The Secretary shall submit to the Committee all proposed standards and amendments to such standards and afford such Committee a reasonable opportunity, not to exceed ninety days, unless extended by the Secretary, to prepare a report on the technical feasibility, reasonableness, and practicability of each such proposal. Each report by the Committee, including any minority views, shall be published by the Secretary and form a part of the proceedings for the promulgation of standards. In the event that the Secretary rejects the conclusions of the majority of the Committee, he shall not be bound by such conclusions but shall publish his reasons for rejection thereof. The Committee may propose safety standards for pipeline facilities and the transportation of gas to the Secretary for his consideration. All proceedings of the Committee shall be recorded and the record of each such proceeding shall be available for public inspection.

(c) Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary not to exceed $100 per diem (including travel time) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

AGREEMENTS WITH STATE AGENCIES

SEC. 5. (a) Subject to the provisions of this section, the Secretary is authorized by written agreement with an appropriate State agency to exempt from the Federal safety standards pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, under which agreement such State agency—

(1) adopts each Federal safety standard applicable to such transportation of gas and pipeline facilities and any amendment to each such standard, established under this Act;

(2) undertakes a program satisfactory to the Secretary, designed to achieve adequate compliance with such standards and with the plans of inspection and maintenance required by section 11; and

(3) agrees to cooperate fully in a system of Federal monitoring of such compliance program and reporting under regulations prescribed by the Secretary.

No such agreement may be concluded with any State agency which does not have the authority (i) to impose the sanctions provided under sections 9 and 10, (ii) to require record maintenance, reporting, and inspection responsibilities substantially the same as are provided under section 12, and (iii) to require the filing for approval of plans of inspection and maintenance described in section 11.

(b) With respect to any State agency with which the Secretary determines that he cannot enter into an agreement under subsection (a) of this section, the Secretary is authorized by agreement to authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to pipeline facilities and the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act the necessary actions to—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with such standards;

(2) establish procedures for approval of plans of inspection and maintenance substantially the same as are required under section 11;

(3) to implement a compliance program acceptable to the Secretary including provision for inspection of pipeline facilities used in such transportation of gas; and

(4) to cooperate fully in a system of Federal monitoring of such compliance program and reporting under regulations prescribed by the Secretary.

Any agreement executed pursuant to this subsection shall require the State to promptly notify the Secretary of any violation or probable violation of a Federal safety standard which it discovers as a result of its program.

(c) (1) Upon an application submitted not later than September 30 in any calendar year, the Secretary is authorized to pay out of funds appropriated pursuant to section 15(a) up to 50 per centum of the cost of the personnel, equipment, and activities of a State agency reasonably required to carry out such agreement during the following calendar year. No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such an agreement.

(2) Upon application by the national organization of State commissions, the Secretary is authorized to pay out of the funds appropriated pursuant to section 15(a) the sum of $20,000, plus such additional sums as he deems justified, to such national organization to pay the reasonable cost of coordinating the activities of the State commissions, to assist them in the maintenance and improvement of gas pipeline safety programs and to render technical assistance to such commissions in other regulatory matters.

(3) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(4) The Secretary may, by regulation, provide for the form and manner of filing of applications under this section, and for such reporting and fiscal procedures as he deems necessary to assure the proper accounting for Federal funds.

(d) Where an exemption from Federal standards for pipeline facilities or the transportation of gas is in effect under subsection (a) of this section the provisions of sections 8(a)(1), 8(a)(2), 9, and 10 of this Act, shall not apply. Any such exemption shall remain in effect until a new or amended Federal safety standard for pipeline facilities or the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act is established pursuant to this Act, and such exemption shall not apply to any such new standard or amendment until the State has adopted such new standard or amendment pursuant to the provisions of subsection (a) of this section. The provisions of this Act shall apply to such standard until such adoption has become effective.

(e) Any agreement under this section may be terminated by the Secretary if, after notice and opportunity for a hearing, he finds that the State agency has failed to comply with any provision of such agree-

ment. Such finding and termination shall be published in the Federal Register, and shall become effective no sooner than fifteen days after the date of publication.

JUDICIAL REVIEW ORDERS

SEC. 6. (a) Any person who is or will be adversely affected or aggrieved by any order issued under this Act may at any time prior to the sixtieth day after such order is issued file a petition for a judicial review with the United States Court of Appeals for the District of Columbia or for the circuit wherein such petitioner is located or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose.

(b) Upon the filing of the petition referred to in subsection (a), the court shall have jurisdiction to review the order in accordance with chapter 7 of title 5 of the United States Code and to grant appropriate relief as provided in such chapter.

(c) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(d) Any action instituted under this section shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(e) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law.

COOPERATION WITH FEDERAL POWER COMMISSION AND STATE COMMISSIONS

SEC. 7. Whenever the establishment of a standard or action upon application for waiver under the provisions of this Act, would affect continuity of any gas services, the Secretary shall consult with and advise the Federal Power Commission or State commission having jurisdiction over the affected pipeline facility before establishing the standard or acting on the waiver application and shall defer the effective date until the Federal Power Commission or any such commission has had reasonable opportunity to grant the authorizations it deems necessary. In any proceedings under section 7 of the Natural Gas Act (15 U.S.C. 717f) for authority to establish, construct, operate, or extend a gas pipeline which is or will be subject to Federal or other applicable safety standards, any applicant shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain the pipeline facilities in accordance with Federal and other applicable safety standards and plans for maintenance and inspection. Such certification shall be binding and conclusive upon the Commission unless the relevant enforcement agency has timely advised the Commission in writing that the applicant has violated safety standards established pursuant to this Act.

COMPLIANCE

SEC. 8. (a) Any person engaged in the transportation of gas shall—

(1) at all times after the date any applicable safety standard established under this Act takes effect comply with the requirements of such standard; and

(2) file and comply with a plan of inspection and maintenance required by section 12; and

(3) permit access to or copying of records, and make reports or provide information, and permit entry or inspection, as required under section 13.

(b) Nothing in this Act shall affect the common law or statutory tort liability of any person.

CIVIL PENALTY

SEC. 9. (a) Any person who violates any provision of section 8(a), or any regulation issued under this Act, shall be subject to a civil penalty of not to exceed $1,000 for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed $400,000 for any related series of violations.

(b) Any such civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged or may be recovered in a civil action in the United States district courts.

INJUNCTION AND JURISDICTION

SEC. 10. (a) The United States district courts shall have jurisdiction, subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this Act (including the restraint of transportation of gas or the operation of a pipeline facility) or to enforce standards established hereunder upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and, except in the case of a knowing and willful violation, shall afford him reasonable opportunity to achieve compliance. However, the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this Act, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Actions under subsection (a) of this section and section 9 may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or transacts business or wherever the defendant may be found.

(d) In any action brought under subsection (a) of this section and section 9, subpenas for witnesses who are required to attend a United States district court may run into any other district.

INSPECTION AND MAINTENANCE PLANS

SEC. 11. Each person who owns or operates any pipeline facility used in the transportation of gas not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act shall file with the Secretary or, where an agreement pursuant to section 5 is in effect, with the State agency, a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency. The Secretary may, by regulation, also require persons who own or operate pipeline facilities subject to the provisions of this Act to file such plans for approval. If at any time the agency with responsibility for enforcement of compliance with the standards established under this Act finds that such plan is inadequate to achieve safe operation, such agency may, after notice and opportunity for a hearing, require such plan to be revised. The plan required by the agency shall be practicable and designed to meet the need for pipeline safety. In determining the adequacy of any such plan, such agency shall consider—

(1) relevant available pipeline safety data;

(2) whether the plan is appropriate for the particular type of pipeline transportation;

(3) the reasonableness of the plan; and

(4) the extent to which such plan will contribute to public safety.

RECORDS, REPORTS, AND INSPECTION FOR COMPLIANCE

SEC. 12. (a) Every person engaged in the transportation of gas or the operation of pipeline facilities shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such person has acted or is acting in compliance with this Act and the standards established under this Act. Each such person shall, upon request of an officer, employee, or agent authorized by the Secretary, permit such officer, employee, or agent to inspect books, papers, records, and documents relevant to determining whether such person has acted or is acting in compliance with this Act and the standards established pursuant to this Act.

(b) The Secretary is authorized to conduct such monitoring of State enforcement practices and such other inspection and investigation as may be necessary to aid in the enforcement of the provisions of this Act and the standards established pursuant to this Act. He shall furnish the Attorney General any information obtained indicating noncompliance with such standards for appropriate action. For purposes of enforcement of this Act, officers, employees, or agents authorized by the Secretary, upon presenting appropriate credentials to the individual in charge, are authorized (1) to enter upon, at reasonable times, pipeline facilities, and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such facilities. Each such inspection shall be commenced and completed with reasonable promptness.

(c) Accident reports made by any officer, employee, or agent of the Department of Transportation shall be available for use in any civil, criminal, or other judicial proceeding arising out of such accident. Any such officer, employee, or agent may be required to testify in such proceedings as to the facts developed in such investigations. Any such report shall be made available to the public in a manner which need not identify individuals. All reports on research projects, demonstration projects, and other related activities shall be public information.

(d) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (a), (b), or (c) which information contains or relates to a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Secretary or any officer, employee, or agent under his control, from the duly authorized committees of the Congress.

ADMINISTRATION

SEC. 13. (a) The Secretary shall conduct research, testing, development, and training necessary to carry out the provisions of this Act. The Secretary is authorized to carry out the provisions of this section by contract, or by grants to individuals, States, and nonprofit institutions.

(b) Upon request, the Secretary shall furnish to the Federal Power Commission any

information he has concerning the safety of any materials, operations, devices, or processes relating to the transportation of gas or the operation of pipeline facilities.

(c) The Secretary is authorized to advise, assist, and cooperate with other Federal departments and agencies and State and other interested public and private agencies and persons, in the planning and development of (1) Federal safety standards and (2) methods for inspecting and testing to determine compliance with Federal safety standards.

REPORTS

SEC. 14. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on March 17 of each year a comprehensive report on the administration of this Act for the preceding calendar year. Such report shall include—

(1) a thorough compilation of the accidents and casualties occurring in such year with a statement of cause whenever investigated and determined by the National Transportation Safety Board;

(2) a list of Federal gas pipeline safety standards established or in effect in such year with identification of standards newly established during such year;

(3) a summary of the reasons for each waiver granted under section 3(e) during such year;

(4) an evaluation of the degree of observance of applicable safety standards for the transportation of gas and pipeline facilities including a list of enforcement actions, and compromises of alleged violations by location and company name;

(5) a summary of outstanding problems confronting the administration of this Act in order of priority;

(6) an analysis and evaluation of research activities, including the policy implications thereof, completed as a result of Government and private sponsorship and technological progress for safety achieved during such year;

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under the Act; and

(8) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to the public.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to promote cooperation among the several States in the improvement of gas pipeline safety and to strengthen the national gas pipeline safety program.

APPROPRIATIONS AUTHORIZED

SEC. 15. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not in excess of $10,000,000 for the fiscal year ending June 30, 1969; $13,000,000 for the fiscal year ending June 30, 1970; and $15,000,000 for the fiscal year ending June 30, 1971.

(b) To help defray the expenses of Federal inspection and enforcement under this Act, the Secretary may require the payment of a reasonable annual fee to him by all persons engaged in the transportation of gas.

The title was amended, so as to read: "A bill to authorize the Secretary of Transportation to prescribe safety standards for the transportation of natural and other gas by pipeline, and for other purposes."

Mr. MANSFIELD. Mr. President, in authorizing the Secretary of Transportation to establish safety standards for gas and oil pipelines, this measure truly benefits all Americans. It represents another advancement for the protection of the public from a hazard that has perhaps existed for some time. In this instance the Congress recognized the hazard and has done something about it. But most of all the passage of this measure represents another outstanding achievement for the senior Senator from Washington [Mr. MAGNUSON], the distinguished chairman of the Committee on Commerce.

Senator MAGNUSON handled this measure with characteristic skill and ability; he devoted to it the same deep interest and diligence that he has devoted to every legislative matter that has gained his support in this body. The Senate owes Senator MAGNUSON another deep debt of gratitude. All America will benefit from this measure as it has benefitted from the many, many legislative achievements that bear his mark. We are most grateful.

Joining Senator MAGNUSON to assure the unanimous endorsement of the Senate was the senior Senator from New Hampshire [Mr. COTTON], the distinguished ranking minority member of the committee. Like Senator MAGNUSON, Senator COTTON exhibited the same deep dedication to the public interest which this measure is designed to benefit. He displayed a broad and thorough understanding of all of its provisions and urged its adoption with characteristic articulateness.

The Senate is grateful also for the contribution of the Senator from Ohio [Mr. LAUSCHE]. He successfully urged an amendment and his strong advocacy assured that success. Of course, the senior Senator from Oklahoma [Mr. MONRONEY] is to be commended for his exemplary statement on the measure. While he opposed the Lausche amendment, the defeat of his position in no way reflects upon the outstanding manner in which it was presented. The Senator from Indiana [Mr. HARTKE] is similarly to be commended. While the Senate did not vote to adopt his amendment, his advocacy certainly was sincere and extremely capable.

Again to Senator MAGNUSON goes the sincere appreciation of the entire Senate for leading the unanimous passage of this proposal; its adoption, I believe, is a fine tribute to every Member.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the House amendment to Senate amendment numbered 2 to the bill (H.R. 11641) making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, Interstate Commission on the Potomac River Basin, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1968, and for other purposes.

MENTAL RETARDATION AMENDMENTS OF 1967

Mr. HILL. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 6430, the Mental Retardation Act.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 6430) to amend the public health laws relating to mental retardation, to extend, expand, and improve them, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HILL. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HILL, Mr. YARBOROUGH, Mr. WILLIAMS of New Jersey, Mr. PELL, Mr. KENNEDY of Massachusetts, Mr. JAVITS, Mr. MURPHY, and Mr. DOMINICK, conferees on the part of the Senate.

PARTNERSHIP FOR HEALTH AMENDMENTS OF 1967

Mr. HILL. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 6418, the Partnership for Health Amendments of 1967.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 6418) to amend the Public Health Service Act to extend and expand the authorizations for grants for comprehensive health planning and services, to broaden and improve the authorization for research and demonstrations relating to the delivery of health services, to improve the performance of clinical laboratories, and to authorize cooperative activities between the Public Health Service hospitals and community facilities, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HILL. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HILL, Mr. YARBOROUGH, Mr. WILLIAMS of New Jersey, Mr. PELL, Mr. KENNEDY of Massachusetts, Mr. JAVITS, Mr. MURPHY, and Mr. DOMINICK, conferees on the part of the Senate.

AUTHORIZATION FOR DISPOSAL OF BISMUTH FROM THE NATIONAL STOCKPILE AND THE SUPPLEMENTAL STOCKPILE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 721, H.R. 5788.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 5788) to authorize the disposal of bismuth from the national stockpile and the supplemental stockpile.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

AUTHORIZATION FOR DISPOSAL OF MOLYBDENUM FROM THE NATIONAL STOCKPILE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 722, H.R. 5784.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 5784) to authorize the disposal of molybdenum from the national stockpile.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

AUTHORIZATION FOR DISPOSAL OF RARE-EARTH MATERIALS FROM THE NATIONAL STOCKPILE AND THE SUPPLEMENTAL STOCKPILE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 723, H.R. 5787.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 5787) to authorize the disposal of rare-earth materials from the national stockpile and the supplemental stockpile.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

FOREIGN SERVICE INFORMATION OFFICER CORPS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 699, S. 633.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 633) to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the U.S. Information Agency through establishment of a Foreign Service Information Officer Corps.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with amendments, on page 2, line 5, after the word "'effectively", strike out "the foreign affairs" and insert "such functions and"; in line 14, after word "vital" strike out "foreign affairs"; in line 21 after the word "recruited,", strike out "be"; on page 3, after line 12, strike out:

AUTHORITY OF THE PRESIDENT

SEC. 5. The President shall from time to time prescribe broad policies and regulations with respect to the general administration of the Foreign Service officer system and the Foreign Service information officer personnel system and shall assure that the two systems are compatible with and, to the extent practicable, similar to each other.

APPOINTMENT AND ASSIGNMENT

SEC. 6. Subject to section 4, Foreign Service information officers shall be appointed and assigned at classes and salaries, and in accordance with requirements and procedures, which correspond to those classes, salaries, requirements, and procedures prescribed by sections 412, 413, 421, 422, 431, 432, 441, 500 through 502, 511, 512, 514 through 520, 571 through 575, and 578 of the Foreign Service Act of 1946, as amended.

And, in lieu thereof, insert:

POLICIES AND REGULATIONS

SEC. 5. The Foreign Service information officer personnel system shall be compatible with the Foreign Service officer personnel system. Toward this end, the Director with respect to the Foreign Service information officer personnel system and the Secretary of State with respect to the Foreign Service officer personnel system, after consultation with such officials as the President may determine, shall promulgate policies and regulations governing such systems. Both systems shall be administered, to the extent practicable, in conformity with general policies and regulations of the Federal Government issued in accordance with law.

APPOINTMENT AND ASSIGNMENT

SEC. 6. (a) Subject to section 4, Foreign Service information officers shall be appointed and assigned at classes and salaries, and in accordance with requirements and procedures, which correspond to those classes, salaries, requirements, and procedures, except with regard to career ambassadors, prescribed by sections 412, 413, 421, 422, 431(c), 432, 441, 500, 501(b), 502(b), 511, 514 through 520, 571 through 575, and 578 of the Foreign Service Act of 1949 as amended.

(b) The President shall, by and with the advice and consent of the Senate, appoint Career Ministers for Information.

(c) The Secretary of State may, upon request of the Director, furnish the President with the names of Foreign Service information officers qualified for appointment to the class of Career Minister for Information, together with pertinent information about such officers, but no person shall be appointed into the class of Career Minister for Information who has not been appointed to serve in an Embassy as a Minister for Public Affairs or appointed or assigned to serve in a position which, in the opinion of the Director, is of comparable importance. A list of such positions shall from time to time be published by the Director.

(d) The per annum salary of a Career Minister for Information shall be the same as that provided by section 412 of the Foreign Service Act of 1946, as amended, for the class of Career Minister.

On page 6, line 10, after "Sec. 9." insert "(a)"; in line 14, after the word "officers.", strike out "And" and insert "Any"; after line 18, insert:

(b) In accordance with such regulations as the President may prescribe, any Foreign Service Staff officer or employee appointed by the Agency who has completed at least ten years of continuous service, exclusive of military service, in the Foreign Service of the Agency shall become a participant in the Foreign Service retirement and disability system and shall make a special contribution to the Foreign Service retirement and disability fund in accordance with the provisions of section 852 of the Foreign Service Act of 1946, as amended.

(c) Any such officer or employee who, under the provisions of paragraph (b) of this section, becomes a participant in the Foreign Service retirement and disability system, shall be mandatorily retired for age during the third year after the effective date of that paragraph if he attains age sixty-four or if he is over age sixty-four; during the fourth year at age sixty-three; during the fifth year at age sixty-two; during the sixth year at age sixty-one, and thereafter at age sixty.

(d) Any officer or employee who becomes a participant in the Foreign Service retirement and disability system under the provisions of paragraph (b) of this section who is age fifty-seven or over on the effective date of that paragraph, may retire voluntarily at any time before mandatory retirement under paragraph (c) of this section and receive retirement benefits under section 821 of the Foreign Service Act of 1946, as amended.

(e) The provisions of paragraph (b) of this section become effective on the first day of the first month which begins more than one year after the date of enactment of this Act, except that any Foreign Service Staff officer or employee, who at the time this Act becomes effective meets the requirements for participation in the Foreign Service retirement and disability system, may elect to become a participant in the system before the mandatory provisions become effective. Such Foreign Service Staff officers and employees shall become participants effective on the first day of the second month following the date of their application for earlier participation.

At the top of page 9, strike out:

BOARD OF THE FOREIGN SERVICE AND THE BOARD OF EXAMINERS FOR THE FOREIGN SERVICE

SEC. 12. The functions of the Board of the Foreign Service and the Board of Examiners for the Foreign Service, established by the President pursuant to Reorganization Plan Numbered 4 of 1965, exercised with respect to Foreign Service officers shall be exercised with respect to Foreign Service information officers.

In line 10, change the section number from "13" to "12"; after line 18, insert a new section, as follows:

TRANSFER OF AGENCY FOREIGN SERVICE OFFICERS TO FOREIGN SERVICE INFORMATION OFFICER STATUS

SEC. 13. Agency Foreign Service officers on active service on the effective date of this Act shall, by virtue of this Act, be transferred from the classes in which they are serving on such date to the comparable salaries and classes of Foreign Service information officers established by this Act. Service in the former class shall be considered as constituting service in the new class for the purposes of determining (1) eligibility for promotion, in accordance with the provisions of section 622, (2) liability for separation in accordance with the provisions of section 633, (3) continuation of probationary status pursuant to section 635, and (4) credit for time served toward in-class promotion in accordance with section 625.

And on page 10, after line 8, strike out:

SEC. 14. Notwithstanding any other provision of this Act and the last sentence of section 3320 of title 5 of the United States Code, section 3320 (except the last sentence thereof) of such title, relating to veterans' preference, shall be applicable to applicants for appointment and persons appointed as, Foreign Service information officers pursuant to this Act in like manner as such sections are applicable to applicants for, and persons appointed in, the competitive service.

And, in lieu thereof, insert:

SEC. 14. Notwithstanding the provisions of section 3320 of title 5 of the United States Code, the fact that any applicant is a veteran or disabled veteran, as defined in section 2108 (1) or (2) of such title, shall be taken into consideration as an affirmative factor in the selection of applicants for initial appointment as Foreign Service officers or Foreign Service information officers.

So as to make the bill read:

S. 633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a category of officers of the United States Information Agency (hereinafter referred to as "the Agency") to be known as Foreign Service information officers.

STATEMENT OF POLICY

SEC. 2. It is the sense of the Congress that the establishment of a permanent career service for officers of the Agency who serve our country throughout the world in a vital function of the foreign relations of the United States is essential to enable the Director of the United States Information Agency (hereinafter referred to as "the Director") to carry out effectively such functions and responsibilities assigned to the Agency.

STATEMENT OF PURPOSES

SEC. 3. The Congress of the United States hereby declares that the purposes of this Act are—

(a) to provide a statutory basis necessary for a worldwide career officer personnel system designed to meet the continuing needs of both the Agency and those qualified citizens who shall serve as Foreign Service information officers in this vital activity;

(b) to give the Director the full range of personnel authority necessary to establish and administer the Foreign Service Information Officer Corps;

(c) to regularize the personnel system of the Agency by establishing a career service in which qualified Foreign Service information officers may be recruited, trained, and serve;

(d) to assure maximum efficiency and flexibility in the utilization of the talents of Foreign Service information officers; and

(e) to accord Foreign Service information officers the same rights and perquisites and to subject them to the same stringent judgment of performance as Foreign Service officers employed under the provisions of the Foreign Service Act of 1946, as amended.

AUTHORITY OF THE DIRECTOR

SEC. 4. Foreign Service information officers shall be under the direction and authority of the Director of the Agency. Authority available to the Secretary of State with respect to Foreign Service officers shall be available on the same basis to the Director of the Agency with respect to Foreign Service information officers, except as provided in section 11 of this Act.

POLICIES AND REGULATIONS

SEC. 5. The Foreign Service information officer personnel system shall be compatible with the Foreign Service officer personnel system. Toward this end, the Director with respect to the Foreign Service information officer personnel system and the Secretary of State with respect to the Foreign Service officer personnel system, after consultation with such officials as the President may determine, shall promulgate policies and regulations governing such systems. Both systems shall be administered, to the extent practicable, in conformity with general policies and regulations of the Federal Government issued in accordance with law.

APPOINTMENT AND ASSIGNMENT

SEC. 6. (a) Subject to section 4, Foreign Service information officers shall be appointed and assigned at classes and salaries, and in accordance with requirements and procedures, which correspond to those classes, salaries, requirements, and procedures, except with regard to career ambassadors, prescribed by sections 412, 413, 421, 422, 431(c), 432, 441, 500, 501(b), 502(b), 511, 514 through 520, 571 through 575, and 578 of the Foreign Service Act of 1946, as amended.

(b) The President shall, by and with the advice and consent of the Senate, appoint Career Ministers for Information.

(c) The Secretary of State may, upon request of the Director, furnish the President with the names of Foreign Service information officers qualified for appointment to the class of Career Minister for Information, together with pertinent information about such officers, but no person shall be appointed into the class of Career Minister for Information who has not been appointed to serve in an Embassy as a Minister for Public Affairs or appointed or assigned to serve in a position which, in the opinion of the Director, is of comparable importance. A list of such positions shall from time to time be published by the Director.

(d) The per annum salary of a Career Minister for Information shall be the same as that provided by section 412 of the Foreign Service Act of 1946, as amended, for the class of Career Minister.

PROMOTION

SEC. 7. Foreign Service information officers shall be promoted in accordance with the provisions of section 621 through 623, and 626 of the Foreign Service Act of 1946, as amended, and shall receive within-class salary increases in accordance with section 625 of such Act.

SEPARATION AND RETIREMENT

SEC. 8. Foreign Service information officers shall be separated and retired in accordance with sections 631 through 637 of the Foreign Service Act of 1946, as amended.

PARTICIPATION IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 9. (a) Foreign Service information officers shall be participants in and entitled to the benefits of the Foreign Service retirement and disability system under title VIII of the Foreign Service Act of 1946, as amended, on the same basis as Foreign Service officers. Any such Foreign Service information officer who becomes a participant in such system shall make contributions to the Foreign Service retirement and disability fund on the same basis as Foreign Service officers.

(b) In accordance with such regulations as the President may prescribe, any Foreign Service Staff officer or employe appointed by the Agency who has completed at least ten years of continuous service, exclusive of military service, in the Foreign Service of the Agency shall become a participant in the Foreign Service retirement and disability system and shall make a special contribution to the Foreign Service retirement and disability fund in accordance with the provisions of section 852 of the Foreign Service Act of 1946, as amended.

(c) Any such officer or employee who, under the provisions of paragraph (b) of this section, becomes a participant in the Foreign Service retirement and disability system, shall be mandatorily retired for age during the third year after the effective date of that paragraph if he attains age sixty-four or if he is over age sixty-four; during the fourth year at age sixty-three; during the fifth year at age sixty-two; during the sixth year at age sixty-one, and thereafter at age sixty.

(d) Any officer or employee who becomes a participant in the Foreign Service retirement and disability system under the provisions of paragraph (b) of this section who is age fifty-seven or over on the effective date of that paragraph, may retire voluntarily at any time before mandatory retirement under paragraph (c) of this section and receive retirement benefits under section 821 of the Foreign Service Act of 1946, as amended.

(e) The provisions of paragraph (b) of this section becomes effective on the first day of the first month which begins more than one year after the date of enactment of this Act, except that any Foreign Service Staff officer or employee, who at the time this Act becomes effective meets the requirements for participation in the Foreign Service retirement and disability system, may elect to become a participant in the system before the mandatory provisions become effective. Such Foreign Service Staff officers and employees shall become participants effective on the first day of the second month following the date of their application for earlier participation.

OTHER APPLICABLE PROVISIONS OF LAW

SEC. 10. All other provisions of the Foreign Service Act of 1946, as amended, or of any other law, which apply to Foreign Service officers and are not referred to above, shall be applicable to Foreign Service information officers.

COMMISSIONING AND ASSIGNMENT AS DIPLOMATIC AND CONSULAR OFFICERS

SEC. 11. (a) The Secretary of State may, upon request of the Director, recommend to the President that Foreign Service information officers be commissioned as diplomatic or consular officers, or both, in accordance with section 512 of the Foreign Service Act of 1946, as amended.

(b) The Secretary of State may, upon request of the Director, assign Foreign Service information officers, commissioned as diplomatic or consular officers, to serve under such commissioners in accordance with sections 512 and 514 of the Foreign Service Act of 1946, as amended.

INTERPRETATION AND CONSTRUCTION

SEC. 12. For the purposes of this Act the term "Foreign Service officer" when used in the Foreign Service Act of 1946, as amended, or in any other provision of law shall be construed to mean "Foreign Service information officer" and the term "Secretary of State" when used with respect to authorities applicable to Foreign Service officers shall be construed to mean the Director of the United States Information Agency with respect to Foreign Service information officers.

TRANSFER OF AGENCY FOREIGN SERVICE OFFICERS TO FOREIGN SERVICE INFORMATION OFFICER STATUS

SEC. 13. Agency Foreign Service officers on active service on the effective date of this Act shall, by virtue of this Act, be transferred from the classes in which they are serving on such date to the comparable salaries and classes of Foreign Service information officers established by this Act. Service in the former class shall be considered as constituting service in the new class for the purposes of determining (1) eligibility for promotion, in accordance with the provisions of section 622, (2) liability for separation, in accordance with the provisions of section 633, (3) continuation of probationary status pursuant to section 635, and (4) credit for time served toward in-class promotion in accordance with section 625.

VETERANS' PREFERENCE

SEC. 14. Notwithstanding the provisions of section 3320 of title 5 of the United States Code, the fact that any applicant is a veteran or disabled veteran, as defined in section 2108 (1) or (2) of such title, shall be taken into consideration as an affirmative factor in the selection of applicants for initial appointment as Foreign Service Officers or Foreign Service information officers.

Mr. MANSFIELD. Mr. President, the pending bill was reported unanimously

by the Committee on Foreign Relations. A number of subcommittee hearings were held under the chairmanship of the distinguished Senator from Rhode Island [Mr. PELL].

This is a measure quite different from the ones that have been before the Senate before. I am hopeful that after an appropriate explanation by the distinguished Senator from Rhode Island, the Senate will see fit to approve this measure.

Mr. PELL. Mr. President, this is a very simple bill designed to correct a personnel problem in the U.S. Information Agency which has existed since the Agency was established 14 years ago. It would authorize a personnel system for the career officers of the Agency comparable to the Foreign Service officer system of the Department of State.

The professional officers of the USIA are neither a part of the civil service nor the career foreign service. They serve under appointments as Foreign Service Reserve officers, a category by law intended for bringing persons with specialized skills into the foreign service for temporary periods. Since the Agency was established its officers have been out in limbo, careerwise. Yet these officers serve side by side with Foreign Service officers at posts around the world.

As background I wish to point out that last year the Committee on Foreign Relations rejected an executive branch proposal to make USIA officers a part of the Foreign Service Officer Corps. But it did approve, and the Senate subsequently passed, a bill to give unlimited appointments to the Agency's reserve officers and told the administration to come up with a legislative proposal to take care of the problem permanently. But this bill was not acted on by the House prior to adjournment. The administration, in response to the Senate directive, recommended enactment of the personnel framework incorporated in the bill now before the Senate. S. 633 has the full support of the executive branch.

The basic purpose of the bill is to authorize establishment of a personnel category for the USIA to be known as foreign service information officer. The foreign service information officer system would be based on the authority of the Foreign Service Act and would be comparable in all respects to the foreign service officer system—except that there would not be a rank similar to that of career ambassador. Appointment promotion, assignment, separation, and retirement would all be governed by the same high standards applicable to the Foreign Service Officer Corps. As the committee's report makes clear, the career officers of the agency will not be brought into the new system en masse but through a selective process to insure that only the best qualified career reserve officers are appointed as foreign service information officers.

The bill also makes the principle of veterans preference applicable to the initial selections of foreign service officers and foreign service information officers, making the principle apply for the first time to selection of foreign service officers.

Under the provisions of the bill the foreign service staff personnel of USIA, with more than 10 years' service, would become eligible to participate in the foreign service retirement system, on the same basis accorded to the State Department's staff personnel when they were brought into the retirement system 6 years ago.

This bill will not add any employees to the Government payroll and it will not result in any increases in grade or salary for USIA personnel. The only cost to the taxpayer will be from the increased retirement benefits that will eventually be paid the affected employees over and above the amount they would have received under the civil service retirement system. The executive branch has estimated that these additional retirement benefits will amount to $16,300,000 over the next 75 years.

Mr. President, this bill simply recognizes the fact that the dissemination abroad of information of the USIA is here to stay and that, if the Agency is to perform its responsibilities in an effective manner, it should have a career personnel system for its professional officers comparable to the Foreign Service officer system in the Department of State.

When the USIA was created as an independent agency 14 years ago, President Eisenhower made it clear that the personnel authority of the Foreign Service Act was not suitable as a permanent framework and that additional authority, tailored to the Agency's needs, would be required. In his message to the Congress transmitting the reorganization plan which established the Agency, he said:

> While these (personnel) arrangements will enable the new agency to function with reasonable effectiveness from the outset, I do not consider them permanently suitable.

The "temporary" arrangements he referred to still govern the Agency's foreign service personnel.

Every living former director of the Agency has endorsed this bill; this personnel system was recommended by the Committee on Foreign Affairs Personnel headed by the late Christian Herter; the U.S. Advisory Commission on Information has repeatedly asked the Congress to enact this legislation; and the American Foreign Service Association, representing the foreign service personnel of State, USIA, and AID, has endorsed the bill. I ask unanimous consent to have these letters and appropriate excerpts from the reports printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. Mr. President, there was no testimony at the committee's hearings in opposition to the basic system which this bill would authorize, although there were some objections to certain procedural aspects of the present foreign service system.

And I wish to emphasize that this bill was reported by the Foreign Relations Committee without objection.

All this bill does is give the USIA the basic personnel authority needed to attract and hold the best people this country has to offer. If Congress, by legislation, or the President, by reorganization plan, decides to transfer the USIA's functions to the State Department at some future date, that is another matter. But I am not aware that any legislation to abolish the USIA has been introduced since I have been a member of the Senate. And, to my knowledge, none of my colleagues on the Committee on Foreign Relations has advocated such a step, regardless of how they might feel about the Agency's effectiveness in carrying out its responsibilities.

After 14 years I think it is time for the Congress to admit that the USIA performs a vital function in foreign policy and that the need for the Agency is a fact of international life. As the 1962 Herter committee report said:

> There can now be no question that the information and cultural programs are an enduring and organic tool of American foreign policy.

In a letter to me last September 27, former President Eisenhower stated the problem quite clearly when he wrote:

> Ever since the close of World War II the U.S. information service has existed on a hand-to-mouth basis, thus diminishing its capacity to draw into the organization really competent people. Because the program has no political appeal it is far too often scorned by the ignorant or by those who seek only votes.
>
> Not only do I believe that there should be a much more intensive and stable effort in this field, but I am quite sure that until the Service is established on a permanent basis we shall not be able to get the best kind of people out of such appropriations as may be made.

I ask unanimous consent to have the text of the letter printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PELL. Mr. President, incidentally, I have been asked about the significance of the bill's reference to the principle of veteran's preference. In this connection, I would like to report the language of our report on the bill dated November 1, 1967 which states:

> The provision approved by the committee will require, as a matter of law, that an applicant for either the Foreign Service Officer Corps of the Department of State or the Foreign Service Information Officer Corps of USIA who is a veteran be given preference over a nonveteran, if their qualifications are equal in all other respects. In making the principle of veterans preference applicable by law, rather than by practice, the committee recognizes that those applicants who have served in the Armed Forces have acquired practical knowledge, experience, and instruction that will better enable them to serve their country in a civilian capacity.

What this means, colloquially, is that when the qualifications of two candidates for admission are equal, the veteran will get the break.

Mr. President, the United States could get along without creating a career system for the Foreign Service personnel of its information and cultural affairs activity. Our foreign policy will not collapse if this bill does not go through. It can be argued that the USIA has mud-

dled along for 14 years without a career personnel system; surely it can get along without one for a few years. The point is not that it has "gotten along"—it is that the Congress has been derelict in its duty for leaving these career officers out in limbo.

I believe that the Agency does a very capable job in carrying out its mandate—a far more capable job than Congress has any right to expect from personnel who are treated as second-class civil servants. This bill does no more than remove the stigma attached to these dedicated officers. It is a proposal for simple justice and fairness—to give them treatment comparable to that given their coworkers in the Foreign Service Officer Corps.

This bill is long overdue and I urge the Senate to pass it by an overwhelming margin.

EXHIBIT 1

DUKE UNIVERSITY,
RULE OF LAW RESEARCH CENTER,
Durham, N.C., October 3, 1967.

Hon. CLAIBORNE PELL,
Chairman, Ad Hoc Subcommittee on Foreign Service Information Officer Corps, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: This letter is written in support of S. 633 and S. 2002, which would authorize a career service for the foreign service personnel of the United States Information Agency. As a former Director of this agency, I should like to express the strongest possible endorsement of this measure. Indeed, it is many years overdue, and should have been an integral part of the U.S.I.A. personnel system from the beginning of that agency's independent status. It is well-known that, by any objective test, many of the overseas U.S.I.A. personnel are expected to have a background of qualifications and also are entrusted with responsibilities comparable with those of regular foreign service officers of the State Department. It would greatly facilitate the recruiting and holding of first-rate personnel for these positions if they could be assured of the status and the privileges that would be afforded by the proposed legislation. It seems to me, therefore, that the provision of this career service is essential, both as a matter of simple justice to the U.S.I.A. officers themselves, and as a matter of serving the best interests of the United States in obtaining and retaining the most highly qualified public servants to discharge this highly important responsibility of explaining this country and its policies to the people of the world.

Yours sincerely,

ARTHUR LARSON,
Director.

DEPARTMENT OF STATE,
FOREIGN SERVICE INSTITUTE,
Washington, October 6, 1967.

Hon. CLAIBORNE PELL,
Chairman, Ad Hoc Subcommittee on Foreign Service Information Officer Corps, U.S. Senate.

DEAR CLAIBORNE: I appreciate the opportunity offered in your letter of September 26 to comment on S. 633 and S. 2002.

I support fully and with enthusiasm the concept of a career foreign service for USIA. The activities carried on by that Agency have become a valuable and continuing aspect of the conduct of the foreign relations of the United States, and I am confident that the national interests of the United States would be advanced by extending the career principle to the personnel engaged in this work.

Some of the persons concerned have been active in this endeavor of more than 25 years, always in a precarious and uncertain status due to the absence of career legislation.

Consideration of career legislation for USIA has been going on for more than ten years. Some of the ablest officers have continued on their jobs solely because of the expectation that career legislation would be enacted. The legislation is necessary not only to attract able young men to USIA work but also to retain the most experienced and qualified officers now employed.

Moreover, simple justice and equity call for enactment of the bill. The persons involved have devoted their careers to the work and are entitled to recognition of such.

I appreciate your support of the career principle and hope your present efforts will finally bring success to the important and long-discussed project.

Sincerely,

GEORGE V. ALLEN,
Former Director, USIA.

U.S. ADVISORY COMMISSION ON INFORMATION,
Washington, D.C., October 12, 1967.

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PELL: The United States Advisory Commission on Information supports—with a conviction of urgency—the creation of a Foreign Service Information Officer Corps. Ours is not a new advocacy; it began in the early '50s, and was renewed as recently as our 22d Report to the Congress this year.

The premature termination of promising careers in the U.S. information, education and cultural program abroad must not be allowed to grow chronic. The dedicated men and women who have served their country with neither perquisites nor assurance of a career system should no longer be denied what they have for so long deserved.

We find S. 633 and S. 2002 both equal to the task, and are confident that their differences can be reconciled. We do, however, find it pertinent to underscore what we consider the appropriateness of those provisions in Section 6 *b*, *c* and *d* of S. 2002 pertaining to the establishment of Career Ministers for Information, and urge that they be retained. The creation of these and other categories will strengthen, prolong and enrich the careers of those on whom we must rely for the effective conduct of U.S. foreign policy.

With all good wishes.

Sincerely,

FRANK STANTON.

STATEMENT OF THEODORE C. STREIBERT

As director of USIA from August 1953 to November 1956, I reached the conclusion that the personnel of the Agency was the critical resource required for successful efforts toward attaining its objectives overseas. There was no question but that it far exceeded the importance of the amounts of moneys appropriated for its operations, aside from the minimum amount necessary to keep the machinery going.

Under my administration, the Agency first came into being as a separate executive agency under a reorganization plan which separated it from the State Department. After setting up a new organization structure, it became apparent that recruiting personnel was the critical factor in establishing a more efficient independent operation of information activities. Although much experienced and valuable personnel was available, at the same time aggressive recruitment to fill the ranks had to be undertaken.

Our experience was that without a career service whereby the higher ranks would be assured of progression, continuity and retirement, the appeal was not attractive to able individuals. In addition to difficulties in recruitment, the retention of more able employees became a difficult problem. Despite successful efforts to raise salary levels to compare less unfavorably with business salaries, it must be remembered that in information activities experienced personnel can command, generally, much higher salaries in the fields of publishing, broadcasting, and public relations. Since government salaries can never equal those of industry in the higher ranges, the advantages of a career service are essential to overcome the disproportion in annual earnings.

The above factors become of greater urgency and more critical import as the information service is about to develop higher qualities of specialized ability in the various information capacities.

Without a career service, information agency personnel in the field is at a disadvantage as against the foreign service personnel with which it is intimately associated. Although harmonious working arrangements in the diplomatic establishment of the field missions have been achieved, at the same time a comparable career service would in fact provide an equality for information personnel as compared with the foreign service personnel with whom it must work intimately.

Beginning with fiscal '69, the U.S. Information Agency will have existed as an independent agency in the executive branch for 15 years. Its successful operation has demonstrated the validity of the separate administration and functioning of the specialized information activities as compared to their previous incorporation within the State Department. Since this successful experience supports the continued independent operation of the Agency indefinitely in the future, it is now time to provide it with the career system which will permit it to function to the highest degree of efficiency.

OCTOBER 9, 1967.

AMERICAN FOREIGN SERVICE ASSOCIATION,
Washington, D.C., September 27, 1967.

Hon. J. W. FULBRIGHT,
U.S. Senate.

DEAR SENATOR FULBRIGHT: As President of the American Foreign Service Association, representing more than 7,000 foreign service employees of the Department of State, AID and USIA, I wish to endorse and support the legislative proposals, now pending before the Senate Foreign Relations Committee, to establish a career Foreign Service Information Officer Corps in USIA. I am joined in this endorsement by the Board of Directors of the Association.

The information and cultural activities of our Government today are an inseparable part of the conduct of our foreign relations abroad. Employees of USIA who carry on these activities work closely with Foreign Service officers of the Department at the same locations in a common effort to further our national interests. Recognition of these employees as career personnel is, in my opinion and that of the Board, long past due.

Two bills to achieve this purpose are pending before the Committee—S–2002 introduced on request from the Executive Branch and S–633 introduced by Senator Pell of Rhode Island. The two bills have the same purpose; i.e. to establish a career Foreign Service Information Officer Corps for the professional foreign service officer personnel of the U.S. Information Agency modeled after the Foreign Service Officer Corps of the Department of State. The Board of the Association and I endorse the principle of a career service for USIA and urge enactment of the proposed legislation.

The new legislation places Foreign Service Information officers under the Foreign Service Retirement and Disability System. Foreign Service Staff personnel of USIA with 10 years continuous service in the foreign service of USIA would also become participants in the Foreign Service Retirement System under the same conditions as Staff personnel

of State Department were covered in 1961. The Board of the Association and I believe that coverage of these career employees of USIA under the Foreign Service Retirement System is especially important.

It is our strong conviction that enactment of this legislation will strengthen and improve the Foreign Service of the United States.

Sincerely,

FOY D. KOHLER,
President.

[From "A Framework for Foreign Affairs Personnel Management," a chapter in the Report of the Committee on Foreign Affairs Personnel (Herter Report), December 1962]

CAREER PERSONNEL SYSTEMS FOR FOREIGN INFORMATION AND DEVELOPMENT PROGRAMS

RECOMMENDATION 4

A career foreign service, to be known as the Foreign Information Service, should be provided for the permanent professional personnel in overseas informational and cultural activities

In 1953, under the President's Reorganization Plan No. 8, the United States Information Agency (USIA) was established as an independent agency outside the Department of State but subject to its foreign policy guidance. This organizational arrangement has proved to be the stablest in the history of overseas informational and cultural programs, the earliest of which began before World War II. For several years after the war, these programs were administered within the Department of State. The mission of the Agency, "to promote the better understanding of the United States among the peoples of the world and to strengthen cooperative international relations," is pursued through a variety of activities. These include, among others, radio broadcasts through the voice of America production and provision overseas of motion pictures, publications and press releases, television films and tapes, and operation of information centers, libraries, and cultural centers. The Agency also administers cultural relations and educational exchange programs abroad in behalf of the State Department, which directs these activities in Washington. The Agency operates in about 100 countries overseas—virtually all except those behind the Iron Curtain—as the United States Information Service (USIS); these overseas offices are integral parts of the diplomatic and consular posts; their director in each country is a public affairs officer who is part of the ambassador's "country team."

USIA employs about 11,000 people, of whom the great majority (8,300) are in the Agency's foreign service. Only about 1,600 of these are United States citizens. Its civil service, largely in Washington, numbers some 2,600 employees.*

The Agency's foreign service is administered under the provisions of the Foreign Service Act of 1946 relevant to the Reserve, Staff, and local employees. It does not directly employ any Foreign Service Officers, although a few work for the Agency on detail from the State Department. Since 1955, the Agency has sought, without success, legislative authority to establish a career service comparable to that of the Foreign Service Officers Corps. Failing this, the Agency has moved as far as it could administratively by establishing a "Career Reserve Officer Corps," which now includes about 800 officers, modeled on the Foreign Service Officers Corps. Each of its members has successfully undergone a qalifying in-service or entry examination. The Agency regularly recruits junior officer candidates and gives them examinations like those for the Foreign Service and on the same days. Its promotion system and many other personnel practices are like those of the Foreign Service Officers, and representatives of the Foreign Service serve on USIA personnel boards and panels.

In certain important respects, however, the career reserve system differs from the career system of the Foreign Service. For example, under present legislative authorization, the Agency cannot employ Reserve officers beyond a ten-year maximum unless it is given annually a special Congressional authorization for a one-year extension in its appropriation bill. Failure to obtain extensions would do irreparable damage to the program, and continued existence of such limitation is not conducive to the building of a secure and stable service. Likewise, the Agency lacks authority to select-out low-performance officers; its foreign service personnel are under the Civil Service rather than the Foreign Service retirement system; and the ceiling on the advancement of highly qualified senior officers is lower than that of Foreign Service Officers, since they are not eligible for promotion above class 1. In spite of these handicaps, USIA has developed a sound personnel system, and the officer corps includes many with long experience in the Agency and its predecessors.

There can now be no question that the information and cultural programs are an enduring and organic tool of American foreign policy. The Committee believes that it is in the national interest to authorize a career system comparable to that of the Foreign Service Officer Corps for the professional personnel in overeas information and cultural activities. Inasmuch as the career reserve officers now in the Agency have already satisfied standards comparable to those required of Foreign Service Officers, this step could be taken quite easily by simple conversion of the career reserve to full career status.

[From the 22d Report of the U.S. Advisory Commission on Information, Jan. 26, 1967]

RECOMMENDATIONS TO CONGRESS

A STATUTORY USIA FOREIGN SERVICE

Successive directors and this Commission have pleaded with the Congress for legislation which would provide foreign service officers of USIA with a career service. The collapse of proposed legislation in the 89th Congress has led to further deterioration of morale among those who serve the interests of their country abroad.

The argument in favor is well known by the Congress and need not be repeated here. The men and women of the foreign service cannot and should not be expected to lobby in their own behalf. They are no one's particular constituency and are completely dependent on the good will, wisdom and judgment of the Congress for their support.

It is the foreign service public affairs officers, cultural affairs officers, information officers, librarians, labor information officers, student affairs grantees, radio and television and motion picture officers who talk with editors, writers and commentators, who counsel with, guide and advise exchange students, professors and scholars, who arrange for and publicize the artistic and musical extravaganzas, who provide foreign parliamentarians and appointed officials with reliable information about U.S. policies and intentions, who speak to foreign audiences, who create exhibits, lend books, show motion pictures or place television and radio programs on local stations, who talk to labor groups and enter into dialogues with students about the United States. They represent the United States, not with foreign offices and prime ministers, but with people from every walk of life who have prejudices as well as curiosity about the United States.

Such representatives of the United States need a Congressionally sanctioned career system. The Commission urgently recommends that Congress make every effort to grant them one.

EXHIBIT 2

GETTYSBURG, PA.,
September 27, 1967.

HON. CLAIBORNE PELL,
Chairman, Ad Hoc Subcommittee on Foreign Service Information Officer Corps.

DEAR CHAIRMAN PELL: It is scarcely possible for me to comment in detail on the two Bills attached to your letter requesting my opinions about establishing a career system for the personnel of the United States Information Agency. But as to the need for setting up such a system, I have no hesitancy whatsoever in assuring you of my full agreement.

The failure of the United States to establish and operate a truly effective informational service throughout the world has, in my opinion, been responsible for many of the difficulties that we are experiencing today. For example, it seems to surprise most Americans that great portions of the world simply do not believe our protestations about our peaceful purposes or our desire to be friends with others who are similarly minded. They do not accept our claims that we do not seek domination of others.

Ever since the close of World War II the U. S. information service has existed on a hand-to-mouth basis, thus diminishing its capacity to draw into the organization really competent people. Because the program has no political appeal it is far too often scorned by the ignorant or by those who seek only votes.

Not only do I believe that there should be a much more intensive and stable effort in this field, but I am quite sure that until the service is established on a permanent basis we shall not be able to get the best kind of people out of such appropriations as may be made.

All of us must have been astonished by the frequency with which speakers in the United Nations General Assembly—meeting during the recent crisis in the Middle East—found it desirable to excoriate the United States and her policies. This fact provides evidence, because we know that these speakers address their own constituents, rather than the others in the General Assembly, that hostile propaganda is painting for foreign populations a false picture of America's purposes and aspirations. We ought to give priority attention to this matter; it is far more important than many other Federal programs.

You are at liberty to quote me as one citizen who supports the establishment of a career service for the United States Information Service.

Sincerely,

DWIGHT D. EISENHOWER.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. CARLSON. Mr. President, I commend the distinguished Senator from Rhode Island for his untiring efforts in behalf of a group of Federal employees with whom we have had some difficulty in trying to work out a program whereby they could get into the Foreign Service category.

The distinguished Senator well remembers many of the difficult sessions we have had within the last 2 years with respect to this problem, and it has taken much finesse and a great deal of thought on his part to bring about a bill that I can support today, and I commend him for it.

Mr. PELL. I thank the distinguished Senator from Kansas for his comments.

*Data as of June 30, 1962.

AMENDMENT OF BANK HOLDING COMPANY ACT OF 1956

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, and that the Senate proceed to the consideration of Calendar No. 475, H.R. 4765.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 4765) relating to the income tax treatment of certain distributions pursuant to the Bank Holding Company Act of 1956, as amended.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with amendments, on page 1, line 3, after the word "That" to insert "(a)"; on page 3, after line 6, to insert:

(b) The amendment made by subsection (a) shall apply to taxable years ending after July 1, 1966.

After line 8 to insert a new section, as follows:

SEC. 2. (a) Section 832(b)(1) of the Internal Revenue Code of 1954 (relating to insurance company gross income) is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) in the case of a company which writes mortgage guaranty insurance, the amount required by subsection (e)(5) to be subtracted from the mortgage guaranty account."

(b) Section 832(c) of such Code (relating to insurance company deductions) is amended by striking out "and" at the end of paragraph (11), by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and", and by adding at the end the following new paragraph:

"(13) in the case of a company which writes mortgage guaranty insurance, the deduction allowed by subsection (e)."

(c) Section 832 of such Code (relating to insurance company taxable income) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL DEDUCTION AND INCOME ACCOUNT.—In the case of taxable years beginning after December 31, 1966, of a company which writes mortgage guaranty insurance—

"(1) ADDITIONAL DEDUCTION.—There shall be allowed as a deduction for the taxable year, if bonds are purchased as required by paragraph (2), the sum of—

"(A) an amount representing the amount required by State law or regulation to be set aside in a reserve for mortgage guaranty insurance losses resulting from adverse economic cycles; and

"(B) an amount representing the aggregate of amounts so set aside in such reserve for the 8 preceding taxable years to the extent such amounts were not deducted under this paragraph in such preceding taxable years,

except that the deduction allowable for the taxable year under this paragraph shall not exceed the taxable income for the taxable year computed without regard to this paragraph or to any carryback of a net operating loss. For purposes of this paragraph, the amount required by State law or regulation to be so set aside in any taxable year shall not exceed 50 percent of premiums earned on insurance contracts (as defined in subsection (b)(4)) with respect to mortgage guaranty insurance for such year. For purposes of this subsection all amounts shall be taken into account on a first-in-time basis. The computation and deduction under this section of losses incurred (including losses resulting from adverse economic cycle) shall not be affected by the provisions of this subsection. For purposes of this subsection the terms 'preceding taxable years' and 'preceding taxable year' shall not include taxable years which began before January 1, 1967.

"(2) PURCHASE OF BONDS.—The deduction under paragraph (1) shall be allowed only to the extent that tax and loss bonds are purchased in an amount equal to the tax benefit attributable to such deduction, as determined under regulations prescribed by the Secretary or his delegate, on or before the date that any taxes (determined without regard to this subsection) due for the taxable year for which the deduction is allowed are due to be paid, as if no election to make installment payments under section 6152 is made. If a deduction would be allowed but for the fact that tax and loss bonds were not timely purchased, such deduction shall be allowed to the extent such purchases are made within a reasonable time, as determined by the Secretary or his delegate, if all interest and penalties, computed as if this sentence did not apply, are paid.

"(3) MORTGAGE GUARANTY ACCOUNT.—Each company which writes mortgage guaranty insurance shall, for purposes of this part, establish and maintain a mortgage guaranty account.

"(4) ADDITIONS TO ACCOUNT.—There shall be added to the mortgage guaranty account for each taxable year an amount equal to the amount allowed as a deduction for the taxable year under paragraph (1).

"(5) SUBTRACTIONS FROM ACCOUNT AND INCLUSION IN GROSS INCOME.—After applying paragraph (4), there shall be substracted for the taxable year from the mortgage guaranty account and included in gross income—

"(A) the amount (if any) remaining which was added to the account for the tenth preceding taxable year, and

"(B) the excess (if any) of the aggregate amount in the mortgage guaranty account over the aggregate amount in the reserve referred to in paragraph (1)(A). For purposes of determining such excess, the aggregate amount in the mortgage guaranty account shall be determined after applying subparagraph (A), and the aggregate amount in the reserve referred to in paragraph (1)(A) shall be determined by disregarding any amounts remaining in such reserve added for taxable years beginning before January 1, 1967,

"(C) an amount (if any) equal to the net operating loss for the taxable year computed without regard to this subparagraph, and

"(D) any amount improperly subtracted from the account under subparagraph (A), (B) or (C) to the extent that tax and loss bonds were redeemed with respect to such amount.

If a company liquidates or otherwise terminates its mortgage guaranty insurance business and does not transfer or distribute such business in an acquisition of assets referred to in section 381(a), the entire amount remaining in such account shall be subtracted. Except in the case where a company transfers or distributes its mortgage guaranty insurance in an acquisition of assets referred to in section 381(a), if the company is not subject to the tax imposed by section 831 for any taxable year, the entire amount in the account at the close of the preceding taxable year shall be subtracted from the account in such preceding taxable year."

(d) Section 381(c)(22) of such Code (relating to carryovers in certain corporate acquisitions) is amended to read as follows:

"(22) SUCCESSOR INSURANCE COMPANY.—If the acquiring corporation is an insurance company taxable under subchapter L, there shall be taken into account (to the extent proper to carry out the purposes of this section and of subchapter L, and under such regulations as may be prescribed by the Secretary or his delegate) the items required to be taken into account for purposes of subchapter L in respect of the distributor or transferor corporation."

(e) The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning after December 31, 1966, except that so much of section 832(e)(2) of the Internal Revenue Code of 1954 (as added by the amendment made by subsection (c)) as provides for payment of interest and penalties for failure to make a timely purchase of tax and loss bonds shall not apply with respect to any period during 1967 during which such bonds are not available for purchase.

(f) The Second Liberty Bond Act is amended by adding at the end thereof the following new section:

"SEC. 26. The Secretary of the Treasury is authorized to issue, from time to time, tax and loss bonds, the proceeds of which shall be available to meet any public expenditures authorized by law, and to retire any outstanding obligations of the United States issued under this Act. Tax and loss bonds shall be nontransferable except as provided by the Secretary of the Treasury, shall bear no interest and shall be issued in such amounts, subject to the limitations imposed by section 21 of this Act, as are necessary to permit persons to comply with section 832(e) of the Internal Revenue Code of 1954. Tax and loss bonds shall be issued in such amounts and on such terms and conditions as required by section 832(e) of such Code and as the Secretary of the Treasury shall prescribe. With respect to any taxable year in which amounts are subtracted from the mortgage guaranty account referred to in section 832(e)(3) of such Code, an amount of tax and loss bonds which was purchased under section 832(e)(2) of such Code with respect to the amount so subtracted shall be redeemed, and to the extent necessary shall be applied to pay any taxes due as a result of the inclusion under section 832(b)(1)(E) of such Code of amounts in gross income. In addition, tax and loss bonds may be redeemed as prescribed by the Secretary of the Treasury."

(g)(1) In the case of taxable years beginning before 1967, a company shall treat additions to a reserve, required by State law or regulations for mortgage guaranty insurance losses resulting from adverse economic cycles, as unearned premiums for purposes of section 832(b)(4) of the Internal Revenue Code of 1954, but the amount so treated as unearned premiums in a taxable year shall not exceed 50 percent of premiums earned on insurance contracts (as defined in section 832(b)(4) of such Code), determined without regard to amounts added to the reserve, with respect to mortgage guaranty insurance for such year. The amount of unearned premiums at the close of 1966 shall be determined without regard to the preceding sentence for the purpose of applying section 832(b)(4) of such Code to 1967. Additions to such a reserve shall not be treated as unearned premiums for any taxable year beginning after 1966.

(2) If a mortgage guaranty insurance company made additions to a reserve which were so treated as unearned premiums described in paragraph (1), such company, in taxable years beginning after 1966, shall include in gross income (in addition to the items specified in section 832(b)(1) of such Code) the sum of the following amounts until there is included in gross income an amount equal to the aggregate additions to the reserve described in paragraph (1) for taxable years beginning before 1967:

(A) an amount (if any) equal to the excess of losses incurred (as defined in section 832

(b)(5) of such Code) for the taxable year over 35 percent of premiums earned on insurance contracts during the taxable year (as defined in section 832(b)(4) of such Code), determined without regard to amounts added to the reserve referred to in paragraph (1), with respect to mortgage guaranty insurance,

(B) the amount (if any) remaining which was added to the reserve for the tenth preceding taxable year, and

(C) the excess (if any) of—

(i) the aggregate of amounts so treated as unearned premiums for all taxable years beginning before 1967 less the total of the amounts included in gross income, under this paragraph for prior taxable years and the amounts included in gross income under subparagraphs (A) and (B) for the taxable year, over

(ii) the aggregate of the additions made for taxable years beginning before 1967 which remain in the reserve at the close of the taxable year.

Amounts shall be taken into account on a first-in-time basis. For purposes of section 832(e) of such Code and this paragraph, if part of the reserve is reduced under State law or regulation, such reduction shall first apply to the extent of amounts added to the reserve for taxable years beginning before 1967, and only then to amounts added thereafter.

(3) The provisions of this subsection shall apply to taxable years beginning after December 31, 1956.

And on page 12, after line 8, to insert a new section as follows:

SEC. 3. (a) Section 101(b)(2) of the Internal Revenue Code of 1954 (relating to employees' death benefits) is amended—

(1) by adding at the end of subparagraph (B) (iii) the following: "For purposes of this clause, a retirement plan described in subparagraph (E) of an employer shall, under regulations prescribed by the Secretary or his delegate, be treated as an annuity contract to which section 403(b) applied purchased by such employer."; and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E) CERTAIN RETIREMENT PLANS.—For purposes of subparagraph (B), a retirement plan referred to in clause (iii) is, with respect to any employee, only a retirement plan—

"(i) which provided for payment of retirement benefits by the employer with respect to which no amount was set aside,

"(ii) with respect to which the employee was (before any benefits accrued to him under such plan) given an election to have comparable benefits provided under an annuity contract to which section 403(b) applied (or would have applied), in lieu of benefits provided under such plan, and

"(iii) with respect to which there was in effect, at the time such employee elected to have benefits provided under such plan, a determination by the Secretary or his delegate that payments of benefits by the employer under such plan were not materially jeopardized by the failure of the employer to set aside amounts to provide for such payments."

(b) Section 403(b)(2) of such Code (relating to exclusion allowance) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) the value of retirement benefits (whether for forfeitable or nonforfeitable) to be provided by the employer which was not includible in the gross income of the employee for any prior taxable year."; and

(2) by adding at the end thereof the following: "For purposes of subparagraph (B), the value of retirement benefits to be provided by the employer shall be determined in accordance with regulations prescribed by the Secretary or his delegate, but such value at the close of any taxable year shall not be greater than the aggregate of the level amounts which would have been contributed by the employer during prior taxable years in order to provide such benefits, if contributions had been made by the employer during such years."

(c) Section 2039 of such Code (relating to treatment of annuities for estate tax purposes) is amended by adding at the end thereof the following new subsection:

"(d) PAYMENTS UNDER CERTAIN RETIREMENT PLANS.—For purposes of subsection (c), a retirement plan described in section 101(b)(2)(E) of an employer described in subsection (c)(3) shall, under regulations prescribed by the Secretary or his delegate, be treated as a retirement annuity contract to which section 403(b) applied purchased by such employer."

(d) Section 2517 of such Code (relating to exclusion from gift tax of transfers of certain annuities under qualified plans) is amended by adding at the end theerof the following new subsection:

"(d) TRANSFERS UNDER CERTAIN RETIREMENT PLANS.—For purposes of subsections (a) and (b), a retirement plan described in section 101(b)(2)(E) of an employer described in subsection (a)(3) shall, under regulations prescribed by the Secretary or his delegate, be treated as a retirement annuity contract to which section 403(b) applies purchased by such employer."

(e)(1) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1966.

(2) The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1967.

(3) The amendment made by subsection (c) shall apply with respect to estates of decedents dying after December 31, 1966.

(4) The amendment made by subsection (d) shall apply with respect to calendar years after 1966.

(f) In the case of an employee who elects to have benefits provided under a retirement plan described in section 101(b)(2)(E) of the Internal Revenue Code of 1954 (as added by subsection (a) of this section) within one year after the date of the enactment of this Act (or within such longer period as the Secretary of the Treasury or his delegate may prescribe by regulations), or who elected to have benefits under such a plan on or before the date of the enactment of this Act, the requirement of clause (iii) of such section 101(b)(2)(E) shall be treated as met if the determination by the Secretary of the Treasury or his delegate with respect to such plan is made within one year after the date of the enactment of this Act (or within such longer period as the Secretary of the Treasury or his delegate may prescribe by regulations).

SEC. 4. (a) Section 46(b) of the Internal Revenue Code of 1954 (relating to carryback and carryover of unused investment credits) is amended by striking out paragraph (3) (relating to effect of net operating loss carryback).

(b) Section 6411(a) of such Code (relating to application for tentative carryback adjustment) is amended by inserting after "within a period of 12 months from the end of such taxable year" in the second sentence the following: "(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year)".

(c) Section 6501(j) of such Code (relating to limitations on assessment in the case of investment credit carrybacks) is amended by inserting before the period at the end thereof the following: ", or, with respect to any portion of investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed".

(d) Section 6511(d)(4)(A) of such Code (relating to special period of limitation on refunds with respect to investment credit carrybacks) is amended by inserting after "which results in such carryback" in the first sentence the following: "(or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the end of such subsequent taxable year)".

(e) Section 6601(e)(2) of such Code (relating to interest on underpayments, etc.) is amended by inserting before the period at the end thereof the following: ", or with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year".

(f) Section 6611(f)(2) of such Code (relating to interest on overpayments) is amended by inserting before the period at the end thereof the following: ", or, with respect to any portion of an investment credit carryback from a taxable year attributable to a net operating loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year".

(g) The amendments made by this section shall apply with respect to investment credit carrybacks attributable to net operating loss carrybacks from taxable years ending after July 31, 1967.

SEC. 5. (a) Section 815(f) of the Internal Revenue Code of 1954 (relating to definition of distribution) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) any distribution after December 31, 1966, of the stock of a controlled corporation to which section 355 applies, if such distribution is made to a corporation which immediately after the distribution is in control (within the meaning of section 368(c)) of both the distributing corporation and such controlled corporation and if such controlled corporation is a life insurance company of which the distributing corporation has been in control at all times since December 31, 1957."

(b)(1) The next to last sentence of section 815(f) is amended—

(A) by striking out "Paragraph (3) shall not" and inserting in lieu thereof "Neither paragraph (3) nor paragraph (4) shall"; and

(B) by striking out "subparagraph (B) of such paragraph" and inserting in lieu thereof "paragraph (3)(B)".

(2) The last sentence of section 815(f) is amended by striking out "paragraph (3) also" and inserting in lieu thereof "paragraphs (3) and (4) also".

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1966.

AIR QUALITY ACT OF 1967

Mr. MUSKIE. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 780.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 780) to amend the Clean Air Act to au-

thorize planning grants to air pollution control agencies; expand research provisions relating to fuels and vehicles; provide for interstate air pollution control agencies or commissions; authorize the establishment of air quality standards, and for other purposes, which was, strike out all after the enacting clause and insert:

That this Act may be cited as the "Air Quality Act of 1967".

SEC. 2. The Clean Air Act, as amended (42 U.S.C. 1857–1857l), is hereby amended to read as follows:

"TITLE I—AIR POLLUTION PREVENTION AND CONTROL

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds—

"(1) that the predominant part of the Nation's population is located in its rapidly expanding metropolitan and other urban areas, which generally cross the boundary lines of local jurisdictions and often extend into two or more States;

"(2) that the growth in the amount and complexity of air pollution brought about by urbanization, industrial development, and the increasing use of motor vehicles, has resulted in mounting dangers to the public health and welfare, including injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to air and ground transportation;

"(3) that the prevention and control of air pollution at its source is the primary responsibility of States and local governments; and

"(4) that Federal financial assistance and leadership is essential for the development of cooperative Federal, State, regional, and local programs to prevent and control air pollution.

"(b) The purposes of this title are—

"(1) to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population;

"(2) to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution;

"(3) to provide technical and financial assistance to State and local governments in connection with the development and execution of their air pollution prevention and control programs; and

"(4) to encourage and assist the development and operation of regional air pollution control programs.

"COOPERATIVE ACTIVITIES AND UNIFORM LAWS

"SEC. 102. (a) The Secretary shall encourage cooperative activities by the States and local governments for the prevention and control of air pollution; encourage the enactment of improved and, so far as practicable in the light of varying conditions and needs, uniform State and local laws relating to the prevention and control of air pollution; and encourage the making of agreements and compacts between States for the prevention and control of air pollution.

"(b) The Secretary shall cooperate with and encourage cooperative activities by all Federal departments and agencies having functions relating to the prevention and control of air pollution, so as to assure the utilization in the Federal air pollution control program of all appropriate and available facilities and resources within the Federal Government.

"(c) It is the intent of Congress that no agreement or compact entered into between States after the date of enactment of the Air Quality Act of 1967, which relates to the control and abatement of air pollution in an air quality control region, shall provide for participation by a State which is not included (in whole or in part) in such air quality control region.

"RESEARCH, INVESTIGATIONS, TRAINING, AND OTHER ACTIVITIES

"SEC. 103 (a) The Secretary shall establish a national research and development program for the prevention and control of air pollution and as part of such program shall—

"(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of air pollution;

"(2) encourage, cooperate with, and render technical services and provide financial assistance to air pollution control agencies and other appropriate public or private agencies, institutions, and organizations, and individuals in the conduct of such activities;

"(3) conduct investigations and research and make surveys concerning any specific problem of air pollution in cooperation with any air pollution control agency with a view to recommending a solution of such problem, if he is requested to do so by such agency or if, in his judgment, such problem may affect any community or communities in a State other than that in which the source of the matter causing or contributing to the pollution is located;

"(4) conduct and accelerate research programs directed toward development of improved low-cost techniques for control of combustion byproducts of fuels, for removal of potential pollutants from fuels, and for control of emissions from evaporation of fuels;

"(5) establish technical advisory committees composed of recognized experts in various aspects of air pollution to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research.

"(b) In carrying out the provisions of the preceding subsection the Secretary is authorized to—

"(1) collect and make available, through publications and other appropriate means, the results of and other information, including appropriate recommendations by him in connection therewith, pertaining to such research and other activities;

"(2) cooperate with other Federal departments and agencies, with air pollution control agencies, with other public and private agencies, institutions, and organizations, and with any industries involved, in the preparation and conduct of such research and other activities;

"(3) make grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals, for purposes stated in subsection (a)(1) of this section;

"(4) contract with public or private agencies, institutions, and organizations, and with individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

"(5) provide training for, and make training grants to, personnel of air polution control agencies and other persons with suitable qualifications;

"(6) establish and maintain research fellowships, in the Department of Health, Education, and Welfare and at public or nonprofit private educational institutions or research organizations;

"(7) collect and disseminate, in cooperation with other Federal departments and agencies, and with other public or private agencies, institutions, and organizations having related responsibilities, basic data on chemical, physical, and biological effects of varying air quality and other information pertaining to air pollution and the prevention and control thereof; and

"(8) develop effective and practical processes, methods, and prototype devices for the prevention or control of air pollution.

"(c) In carrying out the provisions of subsection (a) of this section the Secretary shall conduct research on, and survey the results of other scientific studies on, the harmful effects on the health or welfare of persons by the various known air pollution agents (or combinations of agents).

"(d) The Secretary is authorized to construct such facilities and staff and equip them as he determines to be necessary to carry out his functions under this Act.

"(e) If, in the judgment of the Secretary, an air pollution problem of substantial significance may result from discharge or discharges into the atmosphere, he may call a conference concerning this potential air pollution problem to be held in or near one or more of the places where such discharge or discharges are occurring or will occur. All interested persons shall be given an opportunity to be heard at such conference, either orally or in writing, and shall be permitted to appear in person or by representative in accordance with procedures prescribed by the Secretary. If the Secretary finds, on the basis of the evidence presented at such conference, that the discharge or discharges if permitted to take place or continue are likely to cause or contribute to air pollution subject to abatement under section 107(a), he shall send such findings, together with recommendations concerning the measures which he finds reasonable and suitable to prevent such pollution, to the person or persons whose actions will result in the discharge or discharges involved; to air pollution agencies of the State or States and of the municipality or municipalities where such discharge or discharges will originate; and to the interstate air pollution control agency, if any, in the jurisdictional area of which any such municipality is located. Such findings and recommendations shall be advisory only, but shall be admitted together with the record of the conference, as part of the proceedings under subsections (d), (e), and (f) of section 107.

"GRANTS FOR SUPPORT OF AIR POLLUTION PLANNING AND CONTROL PROGRAMS

"SEC. 104. (a) (1) The Secretary is authorized to make grants to air pollution control agencies in an amount up to two-thirds of the cost of planning, developing, establishing, or improving, and grants to such agencies in an amount up to one-half of the cost of maintaining, programs for the prevention and control of air pollution and programs for the implementation of air quality standards authorized by this Act: *Provided*, That the Secretary is authorized to make grants to air pollution control agencies within the meaning of sections 302(b)(2) and 302(b)(4) in an amount up to three-fourths of the cost of planning, developing, establishing or improving and up to three-fifths of the cost of maintaining, regional air quality control programs. As used in this subsection the term 'regional air quality control program' means a program for the prevention and control of air pollution or the implementation of air quality standards programs as authorized by this Act, in an area that includes the areas of two or more municipalities whether in the same or different States.

"(2) Before approving any grant under this subsection to any air pollution control agency within the meaning of sections 302(b)(2) and 302(b)(4), the Secretary shall receive assurances that such agency provides for adequate representation of appropriate State, interstate, local, and (when appropriate) international, interests in the air quality control region.

"(3) Before approving any planning grant under this subsection to any air pollution control agency within the meaning of sections 302(b)(2) and 302(b)(4), the Secretary shall receive assurances that such agency has the capability of developing a comprehensive air quality plan for the air quality control region, which plan shall include (when appropriate) a recommended system of alerts to avert and reduce the risk of situ-

ations in which there may be imminent and serious danger to the public health or welfare from air pollutants and the various aspects relevant to the establishment of air quality standards for such air quality control region, including the concentration of industries, other commercial establishments, population and naturally occurring factors which shall affect such standards.

"(b) From the sums available for the purposes of subsection (a) of this section for any fiscal year, the Secretary shall from time to time make grants to air pollution control agencies upon such terms and conditions as the Secretary may find necessary to carry out the purpose of this section. In establishing regulations for the granting of such funds the Secretary shall, so far as practicable, give due consideration to (1) the population, (2) the extent of the actual or potential air pollution problem, and (3) the financial need of the respective agencies. No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Secretary is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds. No grant shall be made under this section until the Secretary has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.

"(c) Not more than 10 per centum of the total of funds appropriated or allocated for the purposes of subsection (a) of this section shall be granted for air pollution control programs in any one State. In the case of a grant for a program in an area crossing State boundaries, the Secretary shall determine the portion of such grant that is chargeable to the percentage limitation under this subsection for each State into which such area extends.

"INTERSTATE AIR QUALITY AGENCIES OR COMMISSIONS

"SEC. 105. (a) For the purpose of expediting the establishment of air quality standards in an interstate air quality control region designated pursuant to section 106(a)(2), the Secretary is authorized to pay, for two years, up to 100 per centum of the air quality planning program costs of any agency designated by the Governors of the affected States, which agency shall be capable of recommending to the Governors standards of air quality and plans for implementation thereof and shall include representation from the States and appropriate political subdivisions within the air quality control region. After the initial two-year period the Secretary is authorized to make grants to such agency in an amount up to three-fourths of the air quality planning program costs of such agency.

"(b)(1) Whenever the Secretary deems it necessary to expedite the establishment of standards for an interstate air quality control region designated pursuant to section 106(a)(2) he may, after consultation with the Governors of the affected States, designate or establish an air quality planning commission for the purpose of developing recommended regulations setting forth standards of air quality to be applicable to such air quality control region.

"(2) Such Commission shall consist of the Secretary or his designee who shall serve as Chairman, and adequate representation of appropriate State, interstate, local and (when appropriate) international interests in the designated air quality control region.

"(3) The Secretary shall, within available funds, provide such staff for such Commission as may be necessary to enable it to carry out its functions effectively, and shall pay the other expenses of the Commission; and may also accept for the use by such Commission, funds, property, or services contributed by the State involved or political subdivisions thereof.

"(4) Each appointee from a State, other than an official or employee thereof, or of any political subdivision thereof, shall, while engaged in the work of the Commission, receive compensation at a rate fixed by the Secretary, but not in excess of $100 per diem, including traveltime, and while away from his home or regular place of business, he may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 3109) for persons in the Government service employed intermittently.

"AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

"SEC. 106. (a)(1) The Secretary shall, as soon as practicable, but not later than one year after the date of enactment of the Air Quality Act of 1967, define for the purposes of this Act, atmospheric areas of the Nation on the basis of those conditions, including, but not limited to, climate, meteorology, and topography, which affect the interchange and diffusion of pollutants in the atmosphere.

"(2) For the purpose of establishing ambient air quality standards pursuant to section 107, and for administrative and other purposes, the Secretary, after consultation with appropriate State and local authorities, shall, within eighteen months after the date of enactment of the Air Quality Act of 1967, designate air quality control regions based on jurisdictional boundaries, urban-industrial concentrations, and other factors including atmospheric areas necessary to provide adequate implementation of air quality standards. The Secretary shall immediately notify the Governor or Governors of the affected State or States of such designation.

"(b)(1) The Secretary shall, after consultation with appropriate advisory committees and Federal departments and agencies, from time to time, but as soon as practicable, develop and issue to the States such criteria of air quality as in his judgment may be requisite for the protection of the public health and welfare: *Provided*, That any criteria issued prior to enactment of this section shall be reevaluated in accordance with the consultation procedure and other provisions of this section and, if necessary, modified and reissued. Such issuance shall be announced in the Federal Register and copies shall be made available to the general public.

"(2) Such criteria shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on health and welfare which may be expected from the presence of an air pollution agent, or combination of agents in the ambient air, in varying quantities.

"(3) Such criteria shall include those variable factors which of themselves or in combination with other factors may alter the effects on public health and welfare of any subject agents or combination of agents, including, but not limited to, atmospheric conditions, and the types of air pollution agent or agents which, when present in the atmosphere, may interact with such subject agent or agents, to produce an adverse effect on public health and welfare.

"(c) The Secretary shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on those recommended pollution control techniques the application of which is necessary to achieve levels of air quality set forth in criteria issued pursuant to subsection (b), including those criteria subject to the proviso in subsection (b)(1), which information shall include technical data relating to the technology and costs of emission control. Such recommendations shall include such data as are available on the latest available technology and economic feasibility of alternative methods of prevention and control of air contamination including cost-effectiveness analyses. Such issuance shall be announced in the Federal Register and copies shall be made available to the general public.

"(d) The Secretary shall, from time to time, revise and reissue material issued pursuant to subsection (b) and (c) in accordance with procedures established in such subsections.

"AIR QUALITY STANDARDS AND ABATEMENT OF AIR POLLUTION

"SEC. 107. (a) The pollution of the air in any State or States which endangers the health or welfare of any persons, shall be subject to abatement as provided in this section.

"(b) Consistent with the policy declaration of this title, municipal, State, and interstate action to abate air pollution shall be encouraged and shall not be displaced by Federal enforcement action except as otherwise provided by or pursuant to a court order under subsection (c), (h), or (k).

"(c)(1) If, after receiving any air quality criteria and recommended control techniques issued pursuant to section 106, the Governor of a State, within ninety days of such receipt, files a letter of intent that such State will within one hundred and eighty days, and from time to time thereafter, adopt, after public hearings, ambient air quality standards applicable to any designated air quality control region or portions thereof within such State and within one hundred and eighty days thereafter, and from time to time as may be necessary, adopts a plan for the implementation, maintenance, and enforcement of such standards of air quality adopted, and if such standards and plan are established in accordance with the letter of intent and if the Secretary determines that such State standards are consistent with the air quality criteria and recommended control techniques issued pursuant to section 106; that the plan is consistent with the purposes of the Act insofar as it assures achieving such standards of air quality within a reasonable time; and that a means of enforcement by State action, including authority comparable to that in subsection (k) of this section, is provided, such State standards and plan shall be the air quality standards applicable to such State. If the Secretary determines that any revised State standards and plan are consistent with the purposes of this Act and this subsection, such standards and plan shall be the air quality standards applicable to such State.

"(2) If a State does not (a) file a letter of intent or (b) establish air quality standards in accordance with paragraph (1) of this subsection with respect to any air quality control region or portion thereof and if the Secretary finds it necessary to achieve the purpose of this Act, or the Governor of any State affected by air quality standards established pursuant to this subsection petitions for a revision in such standards, the Secretary may after reasonable notice and a conference of representatives of appropriate Federal departments and agencies, interstate agencies, States, municipalities, and industries involved, prepare regulations setting forth standards of air quality consistent with the air quality criteria and recommended control techniques issued pursuant to section 106 to be applicable to such air quality control region or portions thereof. If, within six months from the date the Secretary publishes such regulations, the State has not adopted air quality standards found by the Secretary to be consistent with the purposes of this Act, or a petition for public

hearing has not been filed under paragraph (3) of this subsection, the Secretary shall promulgate such standards.

"(3) If at any time prior to thirty days after standards have been promulgated under paragraph (2) of this subsection, the Governor of any State affected by such standards petitions the Secretary for a hearing, the Secretary shall call a public hearing for the purpose of receiving testimony from State and local pollution control agencies and other interested parties affected by the proposed standards, to be held in or near one or more of the places where the air quality standards will take effect, before a hearing board of five or more persons appointed by the Secretary. Each State which would be affected by such standards shall be given an opportunity to select a member of the hearing board. Each Federal department, agency, or instrumentality having a substantial interest in the subject matter as determined by the Secretary shall be given an opportunity to select one member of the hearing board and not less than a majority of the hearing board shall be persons other than officers or employees of the Department of Health, Education, and Welfare. The members of the board who are not officers or employees of the United States, while participating in the hearing conducted by such hearing board or otherwise engaged in the work of such hearing board, shall be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703, title 5, of the United States Code for persons in the Government service employed intermittently. At least thirty days prior to the date of such hearing notice of such hearing shall be published in the Federal Register and given to parties notified of the conference required in paragraph (2) of this subsection. On the basis of the evidence presented at such hearing, the hearing board shall within ninety days, unless the Secretary determines a longer period is necessary, make findings as to whether the standards published or promulgated by the Secretary should be approved or modified and transmit its findings to the Secretary. If the hearing board approves the standards as published or promulgated by the Secretary, the standards shall take effect on receipt by the Secretary of the hearing board's recommendations. If the hearing board recommends modifications in the standards as published or promulgated by the Secretary, the Secretary shall promulgate revised regulations setting forth standards of air quality in accordance with the hearing board's recommendations which will become effective immediately upon promulgation.

"(4) Whenever, on the basis of surveys, studies, and reports, the Secretary finds that the ambient air quality of any air quality control region or portion thereof is below the air quality standards established under this subsection, and he finds that such lowered air quality results from the failure of a State to take reasonable action to enforce such standards, the Secretary shall notify the affected State or States, persons contributing to the alleged violation, and other interested parties of the violation of such standards. If such failure does not cease within one hundred and eighty days from the date of the Secretary's notification, the Secretary—

"(i) in the case of pollution of air which is endangering the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, may request the Attorney General to bring a suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

"(ii) in the case of pollution of air which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, at the request of the Governor of such State, shall provide such technical and other assistance as in his judgment is necessary to assist the State in judicial proceedings to secure abatement of the pollution under State or local law, or, at the request of the Governor of such State, shall request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

In any suit brought under the provisions of this subsection the court shall receive in evidence a transcript of the proceedings of the hearing provided for in this subsection, together with the recommendations of the hearing board and the recommendations and standards promulgated by the Secretary, and such additional evidence, including that relating to the alleged violation of the standards, as it deems necessary to complete review of the standards and to determination of all other issues relating to the alleged violation. The court, giving due consideration to the practicability and to the technological and economic feasibility of complying with such standards, shall have jurisdiction to enter such judgment and orders enforcing such judgment as the public interest and the equities of the case may require.

"(5) In connection with any hearings under this section no witness or any other person shall be required to divulge trade secrets or secret processes.

"(d)(1)(A) Whenever requested by the Governor of any State, a State air pollution control agency, or (with the concurrence of the Governor and the State air pollution control agency for the State in which the municipality is situated) the governing body of any municipality, the Secretary shall, if such request refers to air pollution which is alleged to endanger the health or welfare of persons in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate give formal notification thereof to the air pollution control agency of the municipality where such discharge or discharges originate, to the air pollution control agency of the State in which such municipality is located, and to the interstate air pollution control agency, if any, in whose jurisdictional area such municipality is located, and shall call promptly a conference of such agency or agencies and of the air pollution control agencies of the municipalities which may be adversely affected by such pollution, and the air pollution control agency, if any, of each State, or for each area, in which any such municipality is located.

"(B) Whenever requested by the Governor of any State, a State air pollution control agency, or (with the concurrence of the Governor and the State air pollution control agency for the State in which the municipality, is situated) the governing body of any municipality, the Secretary shall, if such request refers to alleged air pollution which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate and if a municipality affected by such air pollution, or the municipality in which such pollution originates, has either made or concurred in such request, give formal notification thereof to the State air pollution control agency, to the air pollution control agencies of the municipality where such discharge or discharges originate, and of the municipality or municipalities alleged to be adversely affected thereby, and to any interstate air pollution control agency, whose jurisdictional area includes any such municipality and shall promptly call a conference of such agency or agencies, unless in the judgment of the Secretary, the effect of such pollution is not of such significance as to warrant exercise of Federal jurisdiction under this section.

"(C) The Secretary may, after consultation with State officials of all affected States, also call such a conference whenever, on the basis of reports, surveys, or studies, he has reason to believe that any pollution referred to in subsection (a) is occurring and is endangering the health and welfare of persons in a State other than that in which the discharge or discharges originate. The Secretary shall invite the cooperation of any municipal, State, or interstate air pollution control agencies having jurisdiction in the affected area on any surveys or studies forming the basis of conference action.

"(D) Whenever the Secretary, upon receipt of reports, surveys, or studies from any duly constituted international agency, has reason to believe that any pollution referred to in subsection (a) which endangers the health or welfare of persons in a foreign country is occurring, or whenever the Secretary of State requests him to do so with respect to such pollution which the Secretary of State alleges is of such a nature, the Secretary of Health, Education, and Welfare shall give formal notification thereof to the air pollution control agency of the municipality where such discharge or discharges originate, to the air pollution control agency of the State in which such muicipality is located, and to the interstate air pollution control agency, if any, in the jurisdictional area of which such municipality is located, and shall call promptly a conference of such agency or agencies. The Secretary shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the conference, and the representative of such country shall, for the purpose of the conference and any further proceeding resulting from such conference, have all the rights of a State air pollution control agency. This subparagraph shall apply only to a foreign country which the Secretary determines has given the United States essentially the same rights with respect to the prevention or control of air pollution occurring in that country as is given that country by this subparagraph.

"(2) The agencies called to attend such conference may bring such persons as they desire to the conference. The Secretary shall deliver to such agencies and make available to other interested parties, at least thirty days prior to any such conference, a Federal report with respect to the matters before the conference, including data and conclusions or findings (if any); and shall give at least thirty days' prior notice of the conference date to any such agency, and to the public by publication on at least three different days in a newspaper or newspapers of general circulation in the area. The chairman of the conference shall give interested parties an opportunity to present their views to the conference with respect to such Federal report, conclusions or findings (if any), and other pertinent information. The Secretary shall provide that a transcript be maintained of the proceedings of the conference and that a copy of such transcript be made available on request of any participant in the conference at the expense of such participant.

"(3) Following this conference, the Secretary shall prepare and forward to all air pollution control agencies attending the conference a summary of conference discussions including (A) occurrence of air pollution subject to abatement under this Act; (B) adequacy of measures taken toward abatement of the pollution; and (C) nature of delays, if any, being encountered in abating the pollution.

"(e) If the Secretary believes, upon the conclusion of the conference or thereafter, that effective progress toward abatement of such pollution is not being made and that the health or welfare of any persons is being

endangered, he shall recommend to the appropriate State, interstate, or municipal air pollution control agency (or to all such agencies) that the necessary remedial action be taken. The Secretary shall allow at least six months from the date he makes such recommendations for the taking of such recommended action.

"(f)(1) If, at the conclusion of the period so allowed, such remedial action or other action which in the judgment of the Secretary is reasonably calculated to secure abatement of such pollution has not been taken, the Secretary shall call a public hearing, to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originated, before a hearing board of five or more persons appointed by the Secretary. Each State in which any discharge causing or contributing to such pollution originates and each State claiming to be adversely affected by such pollution shall be given an opportunity to select one member of such hearing board and each Federal department, agency, or instrumentality having a substantial interest in the subject matter as determined by the Secretary shall be given an opportunity to select one member of such hearing board, and one member shall be a representative of the appropriate interstate air pollution agency if one exists, and not less than a majority of such hearing board shall be persons other than officers or employees of the Department of Health, Education, and Welfare. At least three weeks' prior notice of such hearing shall be given to the State, interstate, and municipal air pollution control agencies called to attend such hearing and to the alleged polluter or polluters. All interested parties shall be given a reasonable opportunity to present evidence to such hearing board.

"(2) On the basis of evidence presented at such hearing, the hearing board shall make findings as to whether pollution referred to in subsection (a) is occurring and whether effective progress toward abatement thereof is being made. If the hearing board finds such pollution is occurring and effective progress toward abatement thereof is not being made it shall make recommendations to the Secretary concerning the measures, if any, which it finds to be reasonable and suitable to secure abatement of such pollution.

"(3) The Secretary shall send such findings and recommendations to the person or persons discharging any matter causing or contributing to such pollution; to air pollution control agencies of the State or States and of the municipality or municipalities where such discharge or discharges originate; and to any interstate air pollution control agency whose jurisdictional area includes any such municipality, together with a notice specifying a reasonable time (not less than six months) to secure abatement of such pollution.

"(g) If action reasonably calculated to secure abatement of the pollution within the time specified in the notice following the public hearing is not taken, the Secretary—

"(1) in the case of pollution of air which is endangering the health or welfare of persons (A) in a State other than that in which the discharge or discharges (causing or contributing to such pollution) originate, or (B) in a foreign country which has participated in a conference called under subparagraph (D) of subsection (d) of this section and in all proceedings under this section resulting from such conference, may request the Attorney General to bring a suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

"(2) in the case of pollution of air which is endangering the health or welfare of persons only in the State in which the discharge or discharges (causing or contributing to such pollution) originate, at the request of the Governor of such State, shall provide such technical and other assistance as in his judgment is necessary to assist the State in judicial proceedings to secure abatement of the pollution under State or local law or, at the request of the Governor of such State, shall request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to secure abatement of the pollution.

"(h) The court shall receive in evidence in any suit brought in a United States court under subsection (g) of this section a transcript of the proceedings before the board and a copy of the board's recommendations and shall receive such further evidence as the court in its discretion deems proper. The court, giving due consideration to the practicability of complying with such standards as may be applicable and to the physical and economic feasibility of securing abatement of any pollution proved, shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the case may require.

"(i) Members of any hearing board appointed pursuant to subsection (f) who are not regular full-time officers or employees of the United States shall, while participating in the hearing conducted by such board or otherwise engaged on the work of such board, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"(j)(1) In connection with any conference called under this section, the Secretary is authorized to require any person whose activities result in the emission of air pollutants causing or contributing to air pollution to file with him, in such form as he may prescribe, a report, based on existing data, furnishing to the Secretary such information as may reasonably be required as to the character, kind, and quantity of pollutants discharged and the use of devices or other means to prevent or reduce the emission of pollutants by the person filing such a report. After a conference has been held with respect to any such pollution the Secretary shall require such reports from the persons whose activities result in such pollution only to the extent recommended by such conference. Such report shall be made under oath or otherwise, as the Secretary may prescribe, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe, unless additional time be granted by the Secretary. No person shall be required in such report to divulge trade secrets or secret processes and all information reported shall be considered confidential for the purposes of section 1905 of title 18 of the United States Code.

"(2) If any person required to file any report under this subsection shall fail to do so within the time fixed by the Secretary for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where such person has his principal office or in any district in which he does business: *Provided*, That the Secretary may upon application therefor remit or mitigate any forfeiture provided for under this subsection and he shall have authority to determine the facts upon all such applications.

"(3) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

"(k) Notwithstanding any other provision of this section, the Secretary, upon receipt of evidence that a particular pollution source or combination of sources (including moving sources) is presenting an imminent and substantial endangerment to the health of persons, and finding that appropriate State or local authorities have not acted to abate such sources, may request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to immediately enjoin any contributor to the alleged pollution to stop the emission of contaminants causing such pollution or to take such other action as may be necessary.

"STANDARDS TO ACHIEVE HIGHER LEVEL OF AIR QUALITY

"SEC. 108. Nothing in this title shall prevent a State, political subdivision, intermunicipal or interstate agency from adopting standards and plans to implement an air quality program which will achieve a higher level of ambient air quality than approved by the Secretary.

"PRESIDENT'S AIR QUALITY ADVISORY BOARD AND ADVISORY COMMITTEES

"SEC. 109. (a)(1) There is hereby established in the Department of Health, Education, and Welfare an Air Quality Advisory Board, composed of the Secretary or his designee, who shall be Chairman, and fifteen members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate, and local governmental agencies, of public or private interests contributing to, affected by, or concerned with air pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of air pollution prevention and control, as well as other individuals who are expert in this field.

"(2) Each member appointed by the President shall hold office for a term of three years, except that (A) any member appointed to fill a vacancy occuring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of office of the members first taking office pursuant to this subsection shall expire as follows: five at the end of one year after the date of appointment, five at the end of two years after such date, and five at the end of three years after such date, as designated by the President at the time of appointment, and (C) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members shall be eligible for reappointment within one year after the end of his preceding term, unless such term was for less than three years.

"(b) The Board shall advise and consult with the Secretary on matters of policy relating to the activities and functions of the Secretary under this Act and make such recommendations as it deems necessary to the President.

"(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board and such other advisory committees as hereinafter authorized shall be provided from the personnel of the Department of Health, Education, and Welfare.

"(d) In order to obtain assistance in the development and implementation of the purposes of this Act including air quality criteria, recommended control techniques, standards, research and development, and to encourage the continued efforts on the part of industry to improve air quality and to develop economically feasible methods for

the control and abatement of air pollution, the Secretary shall from time to time establish advisory committees. Committee members shall include, but not be limited to, persons who are knowledgeable concerning air quality from the standpoint of health, welfare, economic, or technology.

"(e) The members of the Board and other advisory committees appointed pursuant to this Act who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

"COOPERATION BY FEDERAL AGENCIES TO CONTROL AIR POLLUTION FROM FEDERAL FACILITIES

"SEC. 110. (a) It is hereby declared to be the intent of Congress that any Federal department or agency having jurisdiction over any building, installation, or other property shall, to the extent practicable and consistent with the interests of the United States and within any available appropriations, cooperate with the Department of Health, Education, and Welfare and with any air pollution control agency in preventing and controlling the pollution of the air in any area insofar as the discharge of any matter from or by such building, installation, or other property may cause or contribute to pollution of the air in such area.

"(b) In order to control air pollution which may endanger the health or welfare of any persons, the Secretary may establish classes of potential pollution sources for which any Federal department or agency having jurisdiction over any building, installation, or other property shall, before discharging any matter into the air of the United States, obtain a permit from the Secretary for such discharge, such permits to be issued for a specified period of time to be determined by the Secretary and subject to revocation if the Secretary finds pollution is endangering the health and welfare of any persons. In connection with the issuance of such permits, there shall be submitted to the Secretary such plans, specifications, and other information as he deems relevant thereto and under such conditions as he may prescribe. The Secretary shall report each January to the Congress the status of such permits and compliance therewith.

"TITLE II—NATIONAL EMISSION STANDARDS ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'National Emission Standards Act'.

"ESTABLISHMENT OF STANDARDS

"SEC. 202. (a) The Secretary shall by regulation, giving appropriate consideration to technological feasibility and economic costs, prescribe as soon as practicable standards, applicable to the emission of any kind of substance, from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause or contribute to, or are likely to cause or to contribute to, air pollution which endangers the health or welfare of any persons, and such standards shall apply to such vehicles or engines whether they are designed as complete systems or incorporate other devices to prevent or control such pollution.

"(b) Any regulations initially prescribed under this section, and amendments thereto, with respect to any class of new motor vehicles or new motor vehicle engines shall become effective on the effective date specified in the order promulgating such regulations which date shall be determined by the Secretary after consideration of the period reasonably necessary for industry compliance.

"PROHIBITED ACTS

"SEC. 203. (a) The following acts and the causing thereof are prohibited—

"(1) in the case of a manufacturer of new motor vehicles or new motor vehicle engines for distribution in commerce, the manufacture for sale, the sale, or the offering for sale, or the introduction or delivery for introduction into commerce, or the importation into the United States for sale or resale, of any new motor vehicle or new motor vehicle engine, manufactured after the effective date of regulations under this title which are applicable to such vehicle or engine unless it is in conformity with regulations prescribed under this title (except as provided in subsection (b));

"(2) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information, required under section 207; or

"(3) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser.

"(b)(1) The Secretary may exempt any new motor vehicle or new motor vehicle engine, or class thereof, from subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

"(2) A new motor vehicle or new motor vehicle engine offered for importation by a manufacturer in violation of subsection (a) shall be refused admission into the United States, but the Secretary of the Treasury and the Secretary of Health, Education, and Welfare may, by joint regulation, provide for deferring final determination as to admission and authorizing the delivery of such a motor vehicle or engine offered for import to the owner or consignee thereof upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or engine will be brought into conformity with the standards, requirements, and limitations applicable to it under this title. The Secretary of the Treasury shall, if a motor vehicle or engine is finally refused admission under this paragraph, cause disposition thereof in accordance with the customs laws unless it is exported, under regulations prescribed by such Secretary, within ninety days of the date of notice of such refusal or such additional time as may be permitted pursuant to such regulations, except that disposition in accordance with the customs laws may not be made in such manner as may result, directly or indirectly, in the sale, to the ultimate consumer, of a new motor vehicle or new motor vehicle engine that fails to comply with applicable standards of the Secretary of Health, Education, and Welfare under this title.

"(3) A new motor vehicle or new motor vehicle engine intended solely for export, and so labeled or tagged on the outside of the container and on the vehicle or engine itself, shall not be subject to the provisions of subsection (a).

"INJUNCTION PROCEEDINGS

"SEC. 204. (a) The district courts of the United States shall have jurisdiction to restrain violations of paragraph (1), (2), or (3) of section 203(a).

"(b) Actions to restrain such violations shall be brought by and in the name of the United States. In any such action, subpenas for witnesses who are required to attend a district court in any district may run into any other district.

"PENALTIES

"SEC. 205. Any person who violates paragraph (1), (2), or (3) of section 203(a) shall be subject to a fine of not more than $1,000. Such violation with respect to sections 203(a)(1) and 203(a)(3) shall constitute a separate offense with respect to each new motor vehicle or new motor vehicle engine.

"CERTIFICATION

"SEC. 206. (a) Upon application of the manufacturer, the Secretary shall test, or require to be tested, in such manner as he deems appropriate, any new motor vehicle or new motor vehicle engine submitted by such manufacturer to determine whether such vehicle or engine conforms with the regulations prescribed under section 202 or 208(b) of this title. If such vehicle or engine conforms to such regulations the Secretary shall issue a certificate of conformity, upon such terms, and for such period not less than one year, as he may prescribe.

"(b) Any new motor vehicle or any motor vehicle engine sold by such manufacturer which is in all material respects substantially the same construction as the test vehicle or engine for which a certificate has been issued under subsection (a), shall for the purposes of this Act be deemed to be in conformity with the regulations issued under section 202 of this title.

"RECORDS AND REPORTS

"SEC. 207. (a) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and regulations thereunder and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee at reasonable times to have access to and copy such records.

"(b) All information reported or otherwise obtained by the Secretary or his representative pursuant to subsection (a), which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of such section 1905, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

"STATE STANDARDS

"SEC. 208. (a) No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this title. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

"(b) The Secretary shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this title.

"(c) Nothing in this title shall preclude or deny to any State or political subdivision

thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles.

"FEDERAL ASSISTANCE IN DEVELOPING VEHICLE INSPECTION PROGRAMS

"SEC. 209. The Secretary is authorized to make grants to appropriate State air pollution control agencies in an amount up to two-thirds of the cost of developing meaningful uniform motor vehicle emission device inspection and emission testing programs except that (1) no grant shall be made for any part of any State vehicle inspection program which does not directly relate to the cost of the air pollution control aspects of such a program; and (2) no such grant shall be made unless the Secretary of Transportation has certified to the Secretary that such program is consistent with any highway safety program developed pursuant to section 402 of title 23 of the United States Code.

"REGISTRATION OF FUEL ADDITIVES

"SEC. 210. (a) The Secretary may by regulation designate any fuel or fuels, or any classes or uses thereof, and, after such date or dates as may be prescribed by him, no manufacturer or processor of any such fuel may deliver it for introduction into interstate commerce or to another person who, it can reasonably be expected, will deliver such fuel for such introduction unless any additive contained in such fuel has been registered with the Secretary in accordance with this section.

"(b) Upon filing of an application containing or accompanied by such information as to the characteristics and composition of any additive for any fuel as the Secretary finds necessary, and including assurances that such additional information as the Secretary may reasonably require will upon request be provided, the Secretary shall register such additive.

"(c) The Secretary shall make such provision, with respect to any additive, or any class or use thereof, or any information furnished in connection therewith, as in his judgment is necessary to protect any trade secret or is necessary in the interest of national security. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

"(d) Any person who violates subsection (a) shall forfeit and pay to the United States a civil penalty of $1,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person has his principal office or in any district in which he does business. The Secretary may, upon application therefor, remit or mitigate any forfeiture provided for in this subsection, and he shall have authority to determine the facts upon all such applications.

"(e) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

"NATIONAL EMMISSIONS STANDARDS STUDY

"SEC. 211. (a) The Secretary shall submit to the Congress, no later than two years after the effective date of this section, a comprehensive report on the need for and effect of national emission standards for stationary sources. Such report shall include: (A) information regarding identifiable health and welfare effects from single emission sources; (B) examples of specific plants, their location, and the contaminant or contaminants which, due to the amount or nature of emissions from such facilities, constitute a danger to public health or welfare; (C) an up-to-date list of those industries and the contaminant or contaminants which, in his opinion, should be subject to such national standards; (D) the relationship of such national emission standards to ambient air quality, including a comparison of situations wherein several plants emit the same contaminants in an air region with those in which only one such plant exists; (E) an analysis of the cost of applying such standards; and (F) such other information as may be appropriate.

"(b) The Secretary shall conduct a full and complete investigation and study of the feasibility and practicability of controlling emissions from jet and piston aircraft engines and of establishing national emission standards with respect thereto, and report to Congress the results of such study and investigation within one year from the date of enactment of the Air Quality Act of 1967, together with his recommendations.

"DEFINITIONS FOR TITLE II

"SEC. 212. As used in this title—

"(1) The term 'manufacturer' as used in sections 203, 206, 207, and 208 means any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles or new motor vehicle engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce.

"(2) The term 'motor vehicle' means any self-propelled vehicle designed for transporting persons or property on a street or highway.

"(3) The term 'new motor vehicle' means a motor vehicle the equitable or legal title to which has never been transferred to an ultimate purchaser; and the term 'new motor vehicle engine' means an engine in a new motor vehicle or a motor vehicle engine the equitable or legal title to which has never been transferred to the ultimate purchaser.

"(4) The term 'dealer' means any person who is engaged in the sale or the distribution of new motor vehicles or new motor vehicle engines to the ultimate purchaser.

"(5) The term 'ultimate purchaser' means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases such new motor vehicle or new engine for purposes other than resale.

"(6) The term 'commerce' means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia.

"TITLE III—GENERAL

"ADMINISTRATION

"SEC. 301. (a) The Secretary is authorized to prescribe such regulations as are necessary to carry out his functions under this Act. The Secretary may delegate to any officer or employee of the Department of Health, Education, and Welfare such of his powers and duties under this Act, except the making of regulations, as he may deem necessary or expedient.

"(b) Upon the request of an air pollution control agency, personnel of the Public Health Service may be detailed to such agency for the purpose of carrying out the provisions of this Act. The provisions of section 214(d) of the Public Health Service Act shall be applicable with respect to any personnel so detailed to the same extent as if such personnel had been detailed under section 214(b) of that Act.

"(c) Payments under grants made under this Act may be made in installments, and in advance or by way of reimbursement, as may be determined by the Secretary.

"DEFINITIONS

"SEC. 302. When used in this Act—

"(a) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(b) The term 'air pollution control agency' means any of the following:

"(1) A single State agency designated by the Governor of that State as the official State air pollution control agency for purposes of this Act;

"(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution;

"(3) A city, county, or other local government health authority, or, in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

"(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

"(c) The term 'interstate air pollution control agency' means—

"(1) an air pollution control agency established by two or more States, or

"(2) an air pollution control agency of two or more municipalities located in different States.

"(d) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(e) The term 'person' includes an individual, corporation, partnership, association, State, municipality, and political subdivision of a State.

"(f) The term 'municipality' means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

"(g) All language referring to adverse effects on welfare shall include but not be limited to injury to agricultural crops and livestock, damage to and the deterioration of property, and hazards to transportation.

"OTHER AUTHORITY NOT AFFECTED

"SEC. 303. (a) Except as provided in subsection (b) of this section, this Act shall not be construed as superseding or limiting the authorities and responsibilities, under any other provision of law, of the Secretary or any other Federal officer, department, or agency.

"(b) No appropriation shall be authorized or made under section 301, 311, or 314 of the Public Health Service Act for any fiscal year after the fiscal year ending June 30, 1964, for any purpose for which appropriations may be made under authority of this Act.

"RECORDS AND AUDIT

"SEC. 304. (a) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

"COMPREHENSIVE ECONOMIC COST STUDIES

"SEC. 305. (a) In order to provide the basis for evaluating programs authorized by this Act and the development of new programs and to furnish the Congress with the information necessary for authorization of appropriations by fiscal years beginning after

June 30, 1969, the Secretary, in cooperation with State, interstate, and local air pollution control agencies, shall make a detailed estimate of the cost of carrying out the provisions of this Act; a comprehensive study of the cost of program implementation by affected units of government; and a comprehensive study of the economic impact of air quality standards on the Nation's industries, communities, and other contributing sources of pollution, including an analysis of the national requirements for and the cost of controlling emissions to attain such standards of air quality as may be established pursuant to this Act or applicable State law. The Secretary shall submit such detailed estimate and the results of such comprehensive study of cost for the five-year period beginning July 1, 1969, and the results of such other studies, to the Congress not later than January 10, 1969, and shall submit a reevaluation of such estimate and studies annually thereafter.

"(b) The Secretary shall also make a complete investigation and study to determine (1) the need for additional trained State and local personnel to carry out programs assisted pursuant to this Act and other programs for the same purposes as this Act; (2) means of using existing Federal training programs to train such personnel; and (3) the need for additional trained personnel to develop, operate and maintain those pollution control facilities designed and installed to implement air quality standards. He shall report the results of such investigation and study to the President and the Congress not later than July 1, 1969.

"ADDITIONAL REPORTS TO CONGRESS

"SEC. 306. Not later than six months after the effective date of this section and not later than January 10 of each calendar year beginning after such date, the Secretary shall report to the Congress on measures taken toward implementing the purposes and intent of this Act including, but not limited to, (1) the progress and problems associated with control of automotive exhaust emissions and the research efforts related thereto; (2) the development of air quality criteria and recommended emission control requirements; (3) the status of enforcement actions taken pursuant to this Act; (4) the status of State ambient air standards setting, including such plans for implementation and enforcement as have been developed; (5) the extent of development and expansion of air pollution monitoring systems; (6) progress and problems related to development of new and improved control techniques; (7) the development of quantitative and qualitative instrumentation to monitor emissions and air quality; (8) standards set or under consideration pursuant to title II of this Act; (9) the status of State, interstate, and local pollution control programs established pursuant to and assisted by this Act; and (10) the reports and recommendations made by the President's Air Quality Advisory Board.

"LABOR STANDARDS

"SEC. 307. The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on projects assisted under this Act shall be paid wages at rates not less than those prevailing for the same type of work on similiar construction in the locality as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"SEPARABILITY

"SEC. 308. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

"APPROPRIATIONS

"SEC. 309. There are hereby authorized to be appropriated to carry out this Act, other than section 103(d), $99,000,000 for the fiscal year ending June 30, 1968, $145,000,000 for the fiscal year ending June 30, 1969, and $184,300,000 for the fiscal year ending June 30, 1970.

"SHORT TITLE

"SEC. 310. This Act may be cited as the 'Clean Air Act'."

Mr MUSKIE. Mr. President, I move that the Senate insist on its amendments and ask for a conference with the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MUSKIE, Mr. RANDOLPH, Mr. BAYH, Mr. BOGGS, and Mr. COOPER conferees on the part of the Senate.

AMENDMENT OF BANK HOLDING COMPANY ACT OF 1956

The Senate resumed the consideration of the bill (H.R. 4765) relating to the income tax treatment of certain distributions pursuant to the Bank Holding Company Act of 1956, as amended.

Mr. LONG of Louisiana. Mr. President, I do not believe this bill is controversial except for one or two items about which the Senator from Delaware [Mr. WILLIAMS] feels very strongly. Otherwise, I believe the bill may very well have been passed on the call of the calendar. The major point at issue involves a question of whether, when Congress passes legislation to require a divestiture of stock held by a company, which has been complying with the law, the shareholders should be required to pay a tax at that point. There is precedent both ways.

Let me now turn to a general explanation of the bill as amended by the committee.

Your committee has accepted the House-passed provision in this bill without change but has added four amendments relating to different tax matters to the bill.

The provision in the House bill which your committee accepted without change is concerned with corporations which become bank holding companies as a result of the 1966 amendments to the Bank Holding Company Act of 1956. The 1966 amendments removed an exemption provided by prior law and as a result the Financial General Corp., an affiliate of the Equity Corp., which is a registered investment company, became a bank holding company. As you know, bank holding companies are required to divest themselves of either their bank or nonbank holdings.

This bill provides that in this case the corporation can distribute either its bank or its nonbank interests to its shareholders without the shareholders having to pay tax on the stock or other property received so long as all distributions in kind are made on a pro rata basis to all shareholders.

The Treasury Department has indicated that it has no objection to this provision. The tax-free distribution treatment provided by this bill will not, of course, mean that the shareholders will escape any tax whenever they dispose of any of the stock distributed to them. They will still be subject to the regular capital gains tax and their basis in the original stock will be divided between their old stock and the new stock distributed to them.

The tax-free distribution treatment provided in this bill for the Financial General Corp., which was classified by an act of Congress in 1966 as a bank holding company, is the same treatment that was provided for numerous other companies which were classified as bank holding companies as a result of the act in 1956. Having provided for tax-free distributions in these earlier cases, your committee thought it was appropriate to provide the same treatment for companies coming under the new amendments to the bank holding company law.

Actually, there is one change in the treatment provided here that makes it somewhat more restrictive than the earlier treatment. In this case, all distributions in kind—those made in other than money—must be made on a pro rata basis for the tax-free treatment to be available. This prevents any possible manipulation where any of the shareholders may themselves be tax-free organizations or have a high basis for their stock.

Not only is the treatment provided in this bill the same as that provided for bank holding companies under the initial Bank Holding Company Act of 1956, but it is also consistent with the treatment provided under present law where divestitures are required to effectuate the policies of the Securities and Exchange Commission.

There was considerable committee discussion of an alternative type of treatment offered by the Senator from Delaware [Mr. WILLIAMS] which does not in all cases automatically provide for tax-free treatment upon distribution. I am referring to the so-called Du Pont type treatment which was provided when Du Pont was required to divest itself of its holdings of General Motors stock.

In that case, gain was recognized to an individual shareholder receiving a distribution to the extent that the fair market value of the stock distributed exceeded his cost or other basis for the stock with respect to which the distribution was made. This has the effect of imposing a tax on individual shareholders whose stock has substantially appreciated. These shareholders will usually have held the stock for a considerable period of time. Under this treatment no tax would be imposed where the stock has been recently purchased and the fair market value of the stock distributed does not exceed the price the individual shareholder paid for his stock.

Actually, I believe the tax consequences in the case of individual shareholders are likely to differ very little whichever of these two types of treatment is provided. However, I believe the members of the Banking and Currency Committee, which considered the 1966 amendments to the Bank Holding Company Act feel that it is only appropriate to provide the same treatment in this case for a divestiture as was provided earlier in the case of bank holding company divestitures. I believe that the distinguished senior Senator from Utah [Mr. BENNETT] and the distinguished minority leader intend to comment on this. In this connection I should note that on June 6, 1966 I, in reply to a letter from the Senate Banking and Currency Committee, wrote to the committee and gave assurances that a tax change necessitated by that committee's change in the bank holding company law would be considered by the Finance Committee.

In addition to the House-passed provision which your committee has reported without change, your committee added four amendments to the bill.

The first of these relates to mortgage guaranty insurance.

I am sure that the Members of the Senate know that in 1960 the Internal Revenue Service issued two relatively favorable rulings to mortgage guaranty insurance companies. These rulings, in effect, permitted the companies involved to take deductions, as unearned premium reserves, for special contingency reserves required by State law which in some cases equaled 50 percent or more of earned premiums.

Subsequently, the Service has not extended this favorable ruling to other mortgage guaranty insurance companies. I believe it is clear that the initial ruling was a mistake. This bill is an attempt to remove that error and to provide uniform treatment in the future for the two mortgage guaranty insurance companies which received the favorable rulings and other mortgage guaranty companies which have not received such rulings. It is expected that, if this legislation is passed, the Treasury Department will withdraw the prior rulings it has issued to the two companies in the past.

Under the committee amendment, deductions for additions to a reserve for mortgage guaranty insurance losses required by State law or regulations will be allowed, but several restrictions are imposed with respect to this deduction. First, any amount added to the reserve must be restored to income at the close of 10 years—rather than the 15 years as is generally provided for under State law or regulations.

Second, the deduction is not allowed unless the company uses the tax money saved to purchase a special issue of Federal bonds which are non-interest-bearing, nontransferrable, and redeemable only when the amounts added to the reserve are restored to income.

Your committee recognizes that these companies have a problem in that State law requires the additions to reserves of very large amounts of money relative to their premium income. Nevertheless, your committee does not believe that it is appropriate to permit, on any permanent basis, the deduction of amounts substantially in excess of what experience shows can actually be properly claimed as deductions for catastrophe-type losses by these companies. For that reason, although it permits the provision for the deduction initially, it provides that any tax savings arising from the allowance of this deduction, to the extent the funds are not actually used up by catastrophe-type losses, are to be available for use by the Government rather than by the company. This is the effect of requiring the investment of these funds in non-interest-bearing Government bonds.

The Treasury Department has supplied us with information relative to these mortgage guarantee insurance companies.

The data show that the two companies who received the favorable rulings paid $1,596,835 in taxes in the period from 1957 through 1966. They show that the rulings reduced taxes of these companies by $9,028,253.

Had this bill been in effect in that period, the same reduction in taxes for this period would have occurred but the Government would have had the interest-free use of this $9 million during this period.

The operation of the bill can be shown by taking as an illustration the case of MGIC in the 1 year 1961. In that year it deducted $1,424,000 for this special reserve and paid $73,591 in taxes. Assuming a 50-percent tax rate for ease of illustration, the deduction lowered the company's taxes by $712,000 in 1961. Under the bill this $712,000 would be loaned to the Government on an interest-free basis for 10 years, or until 1971. If there were no major catastrophe-type losses in this 10-year period, the entire deduction of $1,424,000 would be restored to income in 1971 and the tax then due on it—assuming a 50-percent rate—of $712,000 would be paid by cashing in the Government bonds of a similar amount.

This resolution of the issue is one which both the Treasury Department and the industry favor. I believe that it is a good solution to a difficult problem which arose in no small part from what, in retrospect, was clearly an incorrect ruling in 1960.

A second amendment added to this bill by your committee relates to unfunded pension plans of universities and certain other tax-exempt organizations. As the name implies, an unfunded pension plan is a plan under which no amounts are set aside to provide for the payment of the pensions when they become due. In these cases, the pension payments are paid out of the general assets of the organization.

Present law provides a series of tax benefits where these organizations purchase commercial annuities for their employees. Among these tax benefits are: first, an exclusion from gross income for income tax purposes of up to $5,000 of payments made by or on behalf of the employer because of the employee's death; second, an exclusion from the gross estate for estate tax purposes of that part of the annuity that was paid for by the employer with funds that were not taxed to the employee; and third, an exclusion—similar to the estate tax exclusion—from the gift tax for the exercise or nonexercise by the employee of an option to designate a beneficiary to receive payments upon his death. These three tax benefits are not available under present law in the case of unfunded pension plans.

It has come to your committee's attention that some universities find that they can provide more favorable pension benefits for their employees than those obtainable through the purchase of annuity contracts if they merely make these benefits a charge upon their general investment funds.

Your committee sees no reason why these educational institutions should be required to purchase commercial annuities in order to provide pension benefits for their employees which receive favorable tax treatment. For this reason, the amendment provides that the three tax benefits I have just described are also to apply to unfunded pension plans of these organizations. The amendment limits their application, however, to situations where the employees: First, have had an option to come under a comparable retirement plan funded by an annuity contract; and second, the Secretary of the Treasury has determined that the absence of funding does not materially jeopardize the ultimate payment of the benefits.

This amendment also deals with a related problem under present law. Under present law, the amounts paid for the purchase of annuity contracts by tax-exempt educational, charitable, or religious organizations for their employees is excluded from the employee's income but only to the extent that they do not exceed 20 percent of the employee's compensation. This is true whether or not the contracts form a part of a nondiscriminatory plan. In computing this 20-percent limitation, present law takes into account not only amounts paid to purchase annuity contracts under the special rule applicable to these tax-exempt organizations, but also takes into account amounts set aside under other annuity contracts as well where the premiums paid by the employer are excluded from the employee's income. However, this 20-percent computation does not take into account amounts contributed by the employer under nonqualified plans which are forfeitable or amounts promised under unfunded plans.

Your committee does not believe that in the area where this 20-percent rule applies Congress intended that the amount set aside tax-free for the future retirement of an employee should be more than 20 percent of the employee's compensation, regardless of the terms of the plans. For this reason, the amendment provides that the value of the retirement benefits to be taken into account under the 20-percent limitation is to include the value of all retirement benefits to which the employee becomes entitled.

The third amendment added by your committee concerns unused investment credits that result from net operating loss carrybacks. The investment credit, being a credit against the income tax otherwise imposed for a year, can only be taken advantage of by a taxpayer if he has tentative tax liability against which the credit can be offset.

Where the taxpayer has no tax liability for the year in which an investment credit is earned, or insufficient tax liability to permit the allowance of all of the credit earned for the year, present law generally permits the taxpayer to carry the unused portion of his credit back to the 3 preceding years and then forward to the 7 succeeding years to offset the tax liability for those years. However, where the carryback of a net operating loss to a year reduces the taxpayer's income for the year, and consequently his tax liability, a specific provision in present law prohibits the carryback of any resulting unused investment credit to earlier years. It is true that the credit may be carried forward to subsequent years, but this, of course, does not benefit a taxpayer if he has no taxable income in the subsequent years.

The operation of these rules is incompatible with the achievement of parity between similarly situated taxpayers. Under present law, a taxpayer who had no income in the year in which the credit was earned is permitted to carry the unused credit back to the prior 3 years and then forward for the 7 succeeding years, but the taxpayer who has no income in that year, because of a net operating loss carryback, may only carry the unused credit forward to subsequent years. If neither of the taxpayers have income in the subsequent years, the taxpayer who initially had no income in the year the investment credit was earned receives the benefit of the credit to the extent of his tax liability for the 3 carryback years, while the taxpayer who had no income for the year in which the credit was earned, because of a net operating loss carryback, will not receive any benefit from the investment credit for any year. As can be seen, this discrimination exists even though over the same period of years the two taxpayers have the same amount of income and tax liability. Although each taxpayer in these cases committed himself to acquire property eligible for the investment credit, only one is permitted to retain the benefit of the credit under existing law.

For the reasons I have outlined to you, the amendment makes the investment credit carryback available where the investment credit earned and allowable for a year is disallowed by reason of a net operating loss carryback to that year.

As my colleagues will recall, this problem was called to our attention earlier this year during consideration of H.R. 6950, the bill that restored the investment credit. The Senator from Wisconsin [Mr. PROXMIRE] introduced this amendment as an amendment to that bill and the Senate adopted it. As you will also remember, that bill was recommitted to your committee with instructions, and reported back to the Senate without this amendment. Upon further consideration of the bill, the Senator from Wisconsin graciously withheld his amendment in order to expedite the consideration of the restoration of the investment credit. In view of the merits of the provision and the fact that the Treasury Department has indicated it has no objection to its enactment, and the further fact that the Senate earlier this year acted favorably upon it, I am sure the Senate will agree that this is a desirable amendment.

The last amendment added to the bill by your committee deals with a problem that raises under the Life Insurance Company Income Tax Act of 1959. Under that act, a life insurance company is permitted temporarily to forgo tax on a portion of its earnings, but these earnings must be set aside in a "policyholders' surplus account." If the life insurance company makes any distribution to shareholders treated as being made out of this account, it becomes subject to the so-called phase III tax on life insurance companies; that is, the tax which was deferred on the earnings added to the policyholders' surplus account, to the extent then treated as distributed, then becomes due and payable. Included in the distributions which may give rise to this tax are distributions of the stock of a subsidiary to the shareholders of the life insurance company which are free of tax to the shareholders receiving the stock. A tax-free distribution of this type is frequently referred to as a "spinoff."

In the past, limited exceptions have been made to this rule where spinoffs were involved. In 1962, in Public Law 87-858, an amendment was adopted permitting a life insurance company to distribute the stock of a controlled fire and casualty insurance subsidiary without any phase III tax being imposed, if certain conditions were met. In 1964, in Public Law 88-571, this exception was extended to cover the spinoff of a fire or casualty insurance subsidiary in all cases where the subsidiary was 80 percent or more owned before January 1, 1958—the effective date of the Life Insurance Company Income Tax Act of 1959. The House committee report at that time pointed out that a subsidiary acquired before the act of 1959 was applicable must of necessity have been acquired with earnings which were not subject to the tax under that act. However, present law does not cover the spinoff distribution of the stock of a subsidiary which is itself a life insurance company.

A case has come to the attention of your committee where a life insurance company owns all of the stock of another life insurance company. It appears probable that if the parent insurance company qualifies itself to do business in some States, the life insurance authorities of those States will also assert control over the subsidiary even though the subsidiary sells no insurance in those States. In addition, it is my understanding that some States have legal restrictions on the ownership of all of the stock of one insurance company by another. To deal with these problems and for other business reasons, the life insurance company in the case called to the attention of your committee, desires to change the parent-subsidiary corporations into brother-sister corporations. It plans to do this by having all of the shareholders of the parent corporation exchange their stock in the parent for stock in a new holding company. Thereafter, the parent company will distribute the stock in its subsidiary life insurance company to the holding company in a transaction that constitutes a spinoff.

The subsidiary in this case has been owned by the parent since long before the enactment of the 1959 Act and has been held by the parent primarily for reasons related to its insurance business rather than as an investment. In these circumstances your committee believes that continuing the deferral of the phase III tax is appropriate and consistent with the actions the Congress has taken in the past where the subsidiary is a fire and casualty insurance company. It should also be made clear that there is no forgiveness of the phase III tax in this case since the former subsidiary, if it makes distributions out of its policyholder surplus account, will still have to pay this tax.

The amendment provides that a spinoff distribution is not to cause the imposition of the phase III tax in cases in which 80 percent of the stock of the subsidiary being distributed was owned at all times since December 31, 1957, by the life insurance company that is distributing it. The amendment also provides, however, that to the extent of contributions to capital made after December 31, 1957, of the subsidiary being spun off, the phase III tax will be imposed on the distribution. The Treasury Department has indicated that it has no objection to this amendment.

Mr. President, I believe it might be best if the Senator from Delaware simply explains his views on the matter and offers any amendment he thinks appropriate. I believe the other provisions are noncontroversial.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. LONG of Louisiana. I yield.

Mr. DIRKSEN. Mr. President, I might point out that twice this bill has been passed by the House in its present form and twice it has been reported by the Committee on Finance.

When in 1966 we amended the Bank Holding Company Act of 1956 we automatically by legislative fiat made this group a bank holding company. They had been operating under the law; they had been operating legitimately and we did that by legislation.

Now, in 1966 when we modified the law there was an exception under which the so-called Financial General Corp. would be required to have their shareholders pay a tax at that point. That looks palpably unfair in view of what we did in making a savings provision for all companies affected by a similar act in 1956.

The distinguished Senator from Delaware has proceeded on a formula that was applied in the Du Pont case. I thought that formula was unfair in the instant case. We understand each other fully and we believe the matter can be ironed out one way or the other in conference, rather than on the floor of the Senate, because it is a rather prolix matter when you get into the heart of it.

I am quite content to see that amendment go into the bill without unnecessary discussion and, of course, in conference it can be gone into in depth, along with House conferees, the Treasury, and any other officials that must be there.

Mr. President, before the Senator offers his amendment, however, I think that all committee amendments would have to be agreed to en bloc to make it possible.

The PRESIDING OFFICER. The Senator is correct.

Mr. WILLIAMS of Delaware. Mr. President, the first amendment I wish to offer would appear on page 1, line 3, to strike out the first section of the bill and insert other language.

I wish to ask whether that amendment would be in order at this point; or I shall ask unanimous consent that the amendment be in order at this point because it affects the first section of the bill.

The PRESIDING OFFICER. Will the Senator please restate his question.

Mr. WILLIAMS of Delaware. Mr. President, my amendment would begin on page 1, line 3, and strike out the first section of the bill and insert new language. Is that in order at this point or shall I wait until we proceed with the committee amendments?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that the Senator's first statement was correct. We would deal with the committee amendments first.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that we have the usual agreement that all committee amendments be agreed to en bloc, reserving the right of any Senator to amend in the first and second degree.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

Beginning on page 1, line 3, strike out the first section of the bill and insert in lieu thereof the following:

"SECTION 1. CERTAIN DISTRIBUTIONS BY A BANK HOLDING COMPANY.—

"(a) CERTAIN EXISTING TAX PROVISIONS MADE INAPPLICABLE.—Part VIII of subchapter O of chapter 1 of the Internal Revenue Code of 1954 shall not apply to any distribution of property made by a corporation which became a bank holding company as a result of the enactment of the Act entitled 'An Act to amend the Bank Holding Company Act of 1956', approved July 1, 1966 (Public Law 89-485).

"(b) DISTRIBUTORS TO NONCORPORATE SHAREHOLDERS.—If a corporation described in subsection (a) distributes divested stock to a qualifying shareholder and if section 301(c)(1) of the Internal Revenue Code of 1954 would, but for this subsection, apply to the distribution of the divested stock, such distribution shall be treated as a distribution which is not out of the earnings and profits of the distributing corporation for purposes of subtitle A of such Code.

"(c) DISTRIBUTIONS TO SHAREHOLDERS MUST BE PRO RATA.—Subsection (b) shall apply only if all distributions of property (other than money) by the bank holding company to its shareholders (with respect to its stock) which are made—

"(1) after April 12, 1965, and

"(2) on or before the date on which the Board of Governors of the Federal Reserve System certifies that the company has disposed of all property the disposition of which is necessary or appropriate to effectuate section 4 of the Bank Holding Company Act of 1956, as amended, or to effectuate the policies of such Act, as amended, are pro rata.

"(d) CERTIFICATION BY FEDERAL RESERVE BOARD.—Subsections (b) and (f) shall not apply with respect to any distribution by the bank holding company unless the Board of Governors of the Federal Reserve System certifies that the company, prior to January 1, 1979, disposed of all property the disposition of which is necessary or appropriate to effectuate section 4 of the Bank Holding Company Act of 1956, as amended, or to effectuate the policies of such Act, as amended. Subsection (b) shall not apply to any transaction one of the principal purposes of which is the distribution of the earnings and profits of the bank holding company or of the corporation whose stock is distributed, or both.

"(e) DEFINITIONS—For purposes of this section:

"(1) BANK HOLDING COMPANY.—The term 'bank holding company' has the meaning assigned to such term by section 2 of the Bank Holding Company Act of 1956, as amended.

"(2) QUALIFYING SHAREHOLDER.—The term 'qualifying shareholder' means any shareholder other than a corporation which may be allowed a deduction under section 243 of the Internal Revenue Code of 1954 with respect to dividends received.

"(3) DIVESTED STOCK.—The term 'divested stock' means stock of a corporation distributed by a bank holding company described in subsection (a) and with respect to which stock the Board of Governors of the Federal Reserve System certified (before the distribution) that the distribution of such stock is necessary or appropriate to effectuate section 4 of the Bank Holding Company Act of 1956, as amended, or to effectuate the policies of such Act, as amended. Such term does not include any stock described in the preceding sentence if the holding period of such stock in the hands of the bank holding company (determined under the provisions of section 1223 of the Internal Revenue Code of 1954) began after April 12, 1965.

"(4) STOCK.—The term 'stock' includes rights to fractional shares.

"(5) REDEMPTIONS.—In determining whether distributions of divested stock to shareholders are pro rata for purposes of subsection (c) or (f), any redemption of stock made in whole or in part with divested stock shall be treated as a distribution.

"(f) DIVESTED STOCK RECEIVED BY CORPORATE SHAREHOLDER.—

"(1) APPLICABILITY OF SUBSECTION.—If a corporation which is an electing corporation (as defined in paragraph (3)) receives divested stock from a bank holding company on a distribution to its shareholders, or from another corporation which is an electing corporation on a distribution to its shareholders, the provisions of this subsection shall be applicable with respect to such divested stock.

"(2) LIMITATIONS.—This subsection shall not apply with respect to divested stock—

"(A) if the bank holding company which originally distributed such stock fails to comply with the provisions of subsection (c);

"(B) received by an electing corporation in respect of stock held by it in another corporation unless the stock in such other corporation was acquired before January 1, 1967 and the holding period of such stock in the hands of the electing corporation (determined under the provisions of section 1223 of the Internal Revenue Code of 1954) began prior to April 12, 1965; or

"(C) received by an electing corporation from another electing corporation if before such receipt and after the stock was distributed by the bank holding company the stock was held at any time by a qualifying shareholder or by a corporation which is not an electing corporation.

"(3) DEFINITION OF ELECTING CORPORATION.—For purposes of this subsection, the term 'electing corporation' means a corporation which is not a qualifying shareholder (as defined in subsection (e)(2)) and which files an election within 90 days after the date of the enactment of this Act to have the provisions of this subsection applicable with respect to divested stock received by it as a shareholder. Such election shall be signed by an officer authorized to execute the income tax returns of the corporation, and the election once made shall be binding for all taxable years.

"(4) DISTRIBUTION TO QUALIFYING SHAREHOLDER OF DIVESTED STOCK BY ELECTING CORPORATION.—If divested stock received by an electing corporation is, within one year after the date such stock was initially distributed by the bank holding company, distributed to a qualifying shareholder, and if section 301(c)(1) of such Code would, but for this subsection, apply to the distribution of the divested stock, such distribution shall be treated as a distribution which is not out of the earnings and profits of the electing corporation for purposes of subtitle A of such Code. This paragraph shall apply only if all distributions or divested stock by the electing corporation to its shareholders (with respect to its stock) which are made prior to January 1, 1979 are pro rata.

"(5) TREATMENT OF DIVESTED STOCK IN HANDS OF ELECTING CORPORATION.—In the case of any distribution of divested stock to an electing corporation by a bank holding company or by another electing corporation—

"(A) the amount of such distribution to the electing corporation for purposes of subtitle A of such Code shall be (notwithstanding section 301(b)(1)(B) of such Code) the fair market value of the stock received, determined as of the date of the distribution; and

"(B) the basis of the divested stock in the hands of the electing corporation shall be (notwithstanding section 301(d)(2) of such Code) the fair market value of such stock decreased by so much of the deduction for dividends received under the provisions of section 243 of such Code as is, under regulations prescribed by the Secretary of the Treasury or his delegate, attributable to the excess, if any, of—

"(i) the fair market value of the stock, over

"(ii) the adjusted basis (in the hands of the distributing company immediately before the distribution) of the divested stock.

"(6) DEDUCTION FOR DIVIDENDS PAID.—If the divested stock received by an electing corporation is distributed by it to its shareholders during a taxable year for which it is a personal holding company as defined in section 542 of such Code, the dividends paid deduction (as defined in section 561 of such Code) shall be computed by treating the distribution of any share of such stock as the distribution of a dividend (notwithstanding paragraph (4) of this subsection) in the same amount as was includible in gross income under paragraph (5) (A) of this subsection on account of the receipt of such share, minus the taxes imposed by subtitle A of such Code attributable to such receipt.

"(g) STATUTE OF LIMITATIONS.—The periods of limitation provided in section 6501 of the Internal Revenue Code of 1954 (relating to limitations on assessment and collection) shall not expire, with respect to any deficiency (including interest and additions to the tax) resulting solely from the receipt of divested stock by shareholders, until 5 years after the earlier of the following dates:

"(1) December 31, 1978, or

"(2) the date the corporation distributing the divested stock notifies the Secretary of the Treasury or his delegate that the Board of Governors of the Federal Reserve System has made the certification referred to in subsection (c) (2);

and such assessment may be made notwithstanding any provision of law or rule of law which would otherwise prevent such assessment.

"(h) EFFECTIVE DATE.—The provisions of this section shall be applicable with respect to distributions made after June 30, 1966."

Mr. LONG of Louisiana. Mr. President, I wish to ask the Senator from Delaware what language is stricken.

Mr. WILLIAMS of Delaware. The amendment would strike out the first section of the bill—only that section.

As the Senator from Illinois pointed out, this deals with the divestiture of stock by the Financial General Corp.

This amendment has been passed by the House of Representatives twice and it twice has not been passed by the Senate.

This amendment would carry out what Congress provided heretofore; namely, that to the extent the distribution by this particular company to a stockholder exceeds the cost that stockholder has in his total investment of that particular stock, he would pay a capital gains tax. This was adopted by the Senate in connection with the divestiture of stock by the Du Pont company.

I understand the Senator is willing that this amendment be accepted and that it go to conference if we can work it out.

With that understanding, I wish to make a brief statement explaining the amendment.

Mr. President, this amendment would modify the first section of the bill to give the individual shareholders of Financial General exactly the same type of relief we gave to the shareholders of the Du Pont company a few years ago. Senators will recall that in the case of the Du Pont distributions there were some shareholders who had an actual profit in hand because they received General Motors stock worth more than their entire cost for the Du Pont stock. The bill imposed an immediate capital gains tax on these shareholders.

There is now general agreement that the Du Pont treatment is fair and equitable in the case of a distribution compelled by law. It would seem appropriate to treat the individual shareholders of Financial General as well as the individual shareholders of Du Pont, but there is no reason why they should be treated any better. Thus, the Du Pont treatment is appropriate here. Furthermore, the Treasury has stated that this approach is acceptable to it.

Under this amendment all distributions required by law made to the individual shareholders of Financial General will be viewed as using up the cost basis of the underlying Financial General stock. Thus, if an individual shareholder owns a share of Financial General which cost him $14 and receives a distribution of stock having a fair market value of $10, he will pay no tax at the time of the distribution but immediately after the distribution the stock received will have a basis of $10—its fair market value—in his hands and the Financial General stock will have a basis of $4—the $14 cost of Financial General minus the $10 value of the stock received.

On the other hand, if a Financial General shareholder who receives stock worth $10, originally paid only $7 for his Financial General stock, a gain of $3 is recognized. This is because the fair market value of the stock received uses up all the cost basis of the Financial General stock, $7, and there is still $3 left over to be recognized as capital gain. In such a case after the distribution, the basis of the stock received is $10 and the basis of the Financial General stock is zero.

Senators will recall that in the Du Pont case, the individual shareholders of the Christiana Corp. were treated in the same manner as the individual shareholders of Du Pont. However, because its shareholders received this special treatment, the Christiana Corp. was required to pay intercorporate dividend tax on the fair market value of the General Motors stock instead of merely on its cost to Du Pont. Similar treatment is provided in my amendment for corporations which elect to be so treated.

There are a number of corporations which own large amounts of the stock of Financial General just as the Christiana Corp. owned a large amount of the stock of Du Pont. Under the Bank Holding Company Act, these corporations are expected to receive large distributions of stock of nonbanking corporations.

Just as Christiana was permitted to distribute the General Motors stock to its individual shareholders without a dividend tax to these individuals, these corporations owning stock at Financial General should, at their election, be permitted to distribute the nonbanking stock received by them to their individual shareholders without any dividend tax to these shareholders.

For this reason my amendment permits any number of distributions through a chain of holding companies down to the individual shareholder without the individual shareholder being required to pay any dividend tax. However, for the holding companies to be able to do this all the companies in the chain will have to elect the treatment provided in the bill and pay the intercorporate dividend tax on the same basis as the tax which was paid by Christiana.

Under the Christiana treatment provided for by my amendment, an electing corporation will usually pay more tax on the receipt of divested stock than is ordinarily paid by a corporation on the receipt of a dividend in property.

The general rule is that a corporation receiving a dividend in property is taxed on dividend income only to the extent of the basis of the property to the distributing corporation—if this basis is less than fair market value. The 85-percent dividends-received deduction is allowed against this basis for the property. However, under my amendment an electing corporation receiving divested stock will have dividend income to the extent of the fair market value of such divested stock—in all cases—and the dividends-received deduction will be allowed against this fair market value. To compensate for the payment of additional tax, an appropriate adjustment is made increasing the basis of the divested stock to the receiving corporation.

The individual shareholders of electing corporations will receive the same treatment as they would have in the case of a distribution made directly to them by Financial General. However, for the individual shareholders of an electing corporation to receive this treatment, the distribution must be made within 1 year of the time the stock was originally distributed by Financial General and must be pro rata. The distribution will not be considered pro rata if at any time before 1979 any divested stock is used to redeem stock of the receiving corporation on a non-pro rata basis.

This requirement that all distributions be pro rata applies also to Financial General. This prevents either Financial General or any electing corporation from avoiding a capital gains tax on the sale of stock received by using it to buy out the stock of charitable organizations or other large shareholders with a high basis.

The special treatment provided for in my amendment applies only to divested stock owned by a bank holding company on April 12, 1965, or acquired after that date in a tax-free transaction in which basis is carried over.

Mr. LONG of Louisiana. Mr. President, I understand what the Senator is proposing is with respect to the divestiture of stock in this case, which was required by the 1966 amendment, a capital gains tax is to be paid on the appreciation in value of the stock distributed.

Mr. WILLIAMS of Delaware. A capital gains tax would be paid by many individual shareholders. Assume stockholder A gets a distribution from this company representing the stock of another company. We will say that the market value is $100. If that stockholder has a cost or other basis of $75 for his stock with respect to which the distribution was made he would pay a capital gains tax on $25. If his cost or other basis

for his stock was $110, he would pay no tax at the time of the distribution. However, he would then have a $100 cost basis for the stock distributed and a $10 cost basis for the stock he previously held.

Mr. LONG of Louisiana. The Senator wants them to pay the tax along the lines of the Du Pont bill?

Mr. WILLIAMS of Delaware. Yes.

Mr. LONG of Louisiana. Mr. President, if my friends on the minority side could agree on what they wanted to do on this measure I would be willing to go along either way. There is a precedent either way. I am happy to see that Senator from Illinois and those who agree with him, and the Senator from Delaware have reached agreement because there are other items in the bill that I regret very much we had to delay in consideration in order to resolve this matter. I salute them both for having reached agreement on this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware. [Putting the question.]

The amendment was agreed to.

Mr. DIRKSEN. Mr. President, at this point, in connection with my remarks, I wish to make a statement with respect to what is involved and what my views are, as well as the companies that would be affected by the legislation.

Mr. President, on May 9, 1956 the Bank Holding Company Act became a law. Congress had given consideration to the problems that had been created by such institutions as the Transamerica Corp., the Chase Investment Co., the General Bancshares Corp., and other large financial structures in the banking business. They expressed concern at the control that these institutions were exercising in the money lending field. The purpose of the act was to prevent the concentration of commercial bank facilities in a particular area under a single control and management and to prevent the grouping together of banking and nonbanking interests under a single control. This law provided for divestiture by these affected institutions. This measure that became law in 1956 did not affect Financial General Corp.

The Bank Holding Company Act of 1956 provided that organizations that controlled two or more banks at the same time or owned interests in other businesses generally, were required to dispose of either their banking or nonbanking interests. These corporations that were classified as bank holding companies usually disposed of either their banking or nonbanking interests by distributing one or more of these classes of interests to their shareholders. Congress considered that this distribution should not create harsh tax consequences for the shareholders in regard to properties being distributed that had been acquired prior to the enactment of the Bank Holding Company Act. In order to avoid any such harsh tax consequences, section 1101–1103 of the Revenue Code were enacted and this provided that the distribution could be made without tax consequences to the shareholders who received the distributed stocks. Without such an amendment to the code the distributions would have been treated as ordinary income to the shareholders with disastrous tax consequences. The following companies made distribution following the enactment of the Bank Holding Company Act of 1956 under the provisions of sections 1101–1103:

General Bancshares Corp.—formerly General Contract Corp.—St. Louis, Mo.

Transamerica Corp., San Francisco, Calif.

Stephens, Inc.—formerly W. R. Stephens Investment Co.—Little Rock, Ark.

Chase Investment Co., Des Moines, Iowa.

Keystone Corp., Kansas City, Mo.

Borgerding Investment Co., Belgrade, Minn.

First Security Corp., Salt Lake City, Utah.

Union Bond & Mortgage Co., Port Angeles, Wash.

Hillsboro Enterprises, Inc., Nashville, Tenn.

Carlen Realty Co., Tarpon Springs, Fla.

Consolidated Naval Stores, Sebring, Fla.

Kemper Investment Co., Kansas City, Mo.

Farmers & Mechanics Trust Co., Childress, Tex.

There was a provision, however, in the Bank Holding Company Act that permitted exceptions to those requirements. One of these exceptions provided that if a company was registered prior to May 15, 1955, under the Investment Company Act of 1940, or was an affiliate of such a company, it was to be considered a bank holding company unless it or its affiliate directly owned 25 percent or more of the voting shares of two or more banks. This exception permitted companies of this type to own indirectly a 25 percent or larger interest in two or more banks. Financial General Corp. qualified for this exception and was not covered or governed by the provisions of the Bank Holding Company Act of 1956.

Financial General Corp. was incorporated under the laws of the Commonwealth of Virginia on February 18, 1925. The present corporate name was adopted in April of 1956.

In 1956, however, Congress repealed this exception—Public Law 89–385: H.R. 7371. This amendment to the Bank Holding Company Act of 1956 requires Financial General Corp. to divest itself of its nonbanking interests. In both the House and Senate, assurances were given that Financial General Corp. would be afforded the same tax treatment that was provided the bank holding companies in 1956. H.R. 4765 furnishes such tax treatment. It had been reported and passed twice by the House and reported twice by the Finance Committee.

Financial General Corp. must divest itself of 95 percent of its stock interests in each of the companies included in the life insurance group, fire and casualty group, the mortgage banking group, and the industrial-merchant banking group. The attachment indicates the companies held by Financial General Corp. in each of these groups.

There has been objection to the type of tax treatment that is being proposed for Financial General Corp. and preference expressed that the formula used in the Du Pont case should be the same formula used for Financial General; however, the situations were not at all alike. The Du Pont Co. was found by the court to be in violation of the antitrust laws and were required to divest themselves of their ownership of 23 percent of the common stock of General Motors Corp. The following headnote from the syllabus in United States against E. I. du Pont de Nemours & Co. and others, shows what the courts held:

In this civil antitrust proceeding, this Court held that acquisition by the du Pont Company of 23% of the common stock of General Motors Corporation had led to the insulation from free competition of most of the General Motors market in automobile finishes and fabrics and tended to create a monopoly of a line of commerce, in violation of § 7 of the Clayton Act. Therefore, this Court reversed the District Court's judgment dismissing the complaint and remanded the case to that Court for a determination of the equitable relief necessary and appropriate in the public interest. 353 U.S. 586. After the taking of further evidence, pertaining mostly to the tax and market consequences to the shareholders of the two companies, the District Court declined to require du Pont to divest itself completely of the General Motors stock, as urged by the Government, and sought to satisfy the requirements of this Court's mandate by requiring du Pont to transfer its voting rights in most of the General Motors stock to certain of du Pont's shareholders, by enjoining the two companies from having any preferential or discriminatory trade relations with each other and by various other injunctive provisions designed to prevent du Pont from exercising any control over the management of General Motors. Held: This remedy is not adequate, and the District Court is directed to proceed expeditiously to enter a decree requiring du Pont to divest itself completely of the General Motors stock within not to exceed 10 years from the effective date of the decree. Pp. 3180335.

(a) When a violation of the antitrust laws has been proved, the initial responsibility to fashion an appropriate remedy lies with the District Court, and this Court accords due regard and respect to the conclusion of the District Court; but this Court has a duty to be sure that a decree is fashioned which will effectively redress the violations of the antitrust laws.

Financial General Corp. is not, and has not been, in violation of any law. Its problems began when Congress decided to remove the exemption in the Bank Holding Company Act of 1956 and to make Financial General Corp. subject to the Bank Holding Company Act. Three alternatives exist so far as the tax consequences to shareholders are concerned.

First Congress could do nothing. The result would be to require the shareholders who receive the distributions to report them as ordinary income or as dividends received to be taxed at ordinary income rates. The dollar amount of the dividends taxable as income to the stockholder, in this instance will be de-

termined under section 301 of the Internal Revenue Code. As a result noncorporate stockholders will be taxed on the fair market value of the stock distributed to them. Corporate stockholders will be taxed on the lesser of first, fair market value of the stock distributed to them; and, second the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the stock distributed to them.

Without tax relief, stockholders will owe a substantial tax, and Financial General Corp., has some 14,000-odd shareholders and they will owe this tax without receipt of a cash distribution with which to pay it. In many instances the stockholders will be forced to dispose of some or all of the stock received in order to generate cash with which to pay their tax. In addition to this involuntary tax liability, a disruption of the public market for these securities may result.

The second alternative would be to afford the shareholders the tax treatment provided by H.R. 4765. The effect of this treatment, the same as they furnished shareholders at the time of the original enactment of the Bank Holding Company Act is as follows:

H.R. 4765. This Bill provides for Financial General stockholders the same tax treatment as was given the stockholders of bank holding companies which became such in 1956 at the time of the original enactment of the Bank Holding Company Act. It will result in no present taxation to the stockholder recipient of any distribution received pursuant to Section 1101–1103 of the Internal Revenue Code. The basis of the distributing corporation's stock and the basis of the property distributed in the hands of the recipient stockholder will be the allocated basis of the stock of the distributing corporation prior to the distribution. This allocation is made proportionate to the fair market value on the date of distribution of the property distributed and the stock of the distributing corporation immediately after the date of distribution. *Upon the sale of either the bank holding stock or the stock distributed, the stockholder will pay a gains tax on the excess of the sale price over his basis.*

The third alternative is the proposal of the Senator from Delaware [Mr. WILLIAMS]:

The Williams amendment to H.R. 4765 will result in the taxation of distributions by a bank holding company as a return of capital to the stockholder recipient except that, corporations entitled to the intercorporate dividend exclusion will pay the ordinary corporate tax rate unless they elect to be taxed as individuals. *This means that each individual stockholder may be required to pay immediately upon the receipt of a distribution a capital gains tax on the amount, if any, by which the fair market value of the stock distributed to him exceeds his basis for the stock of the bank holding company held by him.* This is true even though the stockholder has not sold either his original stock or what he received on the distribution.

SUMMARY

The Bank Holding Company Act was enacted on May 9, 1956, and amended on July 1, 1966. The purposes of the act were to prevent concentration of commercial bank facilities in a particular area under a single control and management and to prevent the grouping together of banking and nonbanking business enterprises under a single control. To accomplish this without harsh treatment to stockholders of bank holding companies, sections 1101–1103 of the Internal Revenue Code were enacted. H.R. 4765 permits similarly situated stockholders as a result of the 1966 amendments, to receive substantially the same treatment previously given.

In effect, H.R. 4765 postpones the assesssment of a gains tax until the stockholder sells some of his holdings; whereas, the Williams amendment formula may impose this tax immediately upon the receipt of the distribution by the individual stockholder and will impose tax at ordinary corporate tax rates on 15 percent of the distribution received by corporate stockholders unless the corporate stockholders elect to be taxed as an individual.

A modification of the Williams formula was applied to distributions of General Motors stock by Du Pont Co. was held by the U.S. district court to have violated the antitrust laws. It was argued that the violation was not willful and some tax relief should be granted.

Financial General Corp. has complied with the Bank Holding Company Act at all times. Only as a result of a recently passed amendment, is it required to make such distributions.

In both the Senate and House hearings on the Bank Holding Company Act amendments, statements were made that Financial General would receive the same type of tax treatment as was provided when the original Bank Holding Company Act of 1956 was passed.

In instances where distributions were required by the enactment of new legislation with regard to actions by the Federal Communications Commission and orders of the Securities and Exchange Commission, Congress has permitted the postponent of capital gains taxes. H.R. 4765 reaches the same result in similar circumstances.

Mr. President, I ask unanimous consent to have printed in the RECORD a document entitled "Summary of Financial General Holdings."

There being no objection, the document was ordered to be printed in the RECORD, as follows:

SUMMARY OF FINANCIAL GENERAL HOLDINGS

BANKING GROUP

At July 1, 1966, the date on which the Company became a bank holding company under the 1966 Amendments to the Bank Holding Company Act of 1956, Financial General Corporation held a majority interest in 19 banks and a minority interest in 7 banks. Thirteen of the banks are national banks; the others are organized under the banking laws of various states and the District of Columbia. Eight of the banks are located in the Washington Metropolitan Area, three of the group banks are located in New York State, and other banks are located in Atlanta, Knoxville, the Chicago area, Virginia, and Maryland.

INSURANCE GROUP

Financial General Corporation has an interest in three life insurance companies.

Bankers Security Life Insurance Society was incorporated under the laws of the State of New York in 1917 and is authorized to transact business in 47 states and the District of Columbia.

United Services Life Insurance Company was incorporated under the laws of the District of Columbia in 1937 and is authorized to write life insurance in 48 states, the Canal Zone, Guam and Puerto Rico. It is devoted exclusively to writing life insurance for officers of the United States Armed Forces and their families.

Bankers Financial Life Company was incorporated under the laws of the State of Oklahoma in 1957 and is authorized to write insurance in 12 states.

FIRE AND CASUALTY INSURANCE AND FINANCE GROUP

The companies in the fire and casualty and finance group are briefly described below:

Hawkeye-Security Insurance Company is a multiple line insurance company specializing in insuring fire, inland marine, casualty, fidelity and surety risk. It was organized in 1919 under the laws of the State of Iowa. Its principal office is located in Des Moines, Iowa, and it writes insurance in 28 states and the District of Columbia.

United Security Insurance Company was incorporated in 1946 under the laws of the State of New Jersey and is authorized to transact business in 32 States and the District of Columbia. It is a multiple line fire and casualty company.

Northeastern Insurance Company of Hartford is a professional insurance company engaged exclusively in reinsuring fire, marine, and casualty risks. It was organized in 1915 and is authorized to transact business in 20 states and the Dominion of Canada.

American Installment Credit Corporation, a wholly-owned subsidiary, was organized in 1945 as a service company to sponsor a credit plan for automobile financing by commercial banks. It has arrangements with approximately 68 banks in 14 states.

Industrial Agency, Inc. (*Delaware*) was organized in 1925 under the laws of the State of Delaware to conduct an insurance agency and brokerage business and is authorized to transact business in 22 states and the District of Columbia. It also conducts a general insurance business.

Industrial Agency, Inc. (*Virginia*) was organized in 1961 under the laws of the State of Virginia and carries on substantially the same activities in that state as Industrial Agency, Inc. (Delaware).

MORTGAGE BANKING GROUP

The companies in the mortgage banking group are briefly described below:

H. G. Smithy Company conducts a mortgage banking and real estate operation in the Washington Metropolitan Area.

National Mortgage Corporation conducts mortgage banking business in the Washington Metropolitan Area.

INDUSTRIAL-MERCHANT BANKING GROUP

The companies in the industrial-merchant banking group are briefly described below:

Bradford Speed Packaging and Development Corporation is engaged principally in the manufacture and leasing or selling of packaging machinery through two subsidiaries—Kliklok Corporation and The Woodman Company, Inc. Bradford also owns 13 per cent of the outstanding stock of Foster-Wheeler Corporation and approximately 34 per cent of The Pierce-Governor Company, Inc.

Intermediate Credit Corporation is engaged in merchant banking activities and other related activities requiring intermediate term financing.

APPENDIX A.—FINANCIAL GENERAL SUBSIDIARIES

	Percent of ownership of voting stocks	Date acquired
Alexandria National Bank	55.5300	Feb. 6, 1959.
Chesapeake National Bank	50.4000	Dec. 11, 1963.
Citizens National Bank in Pocomoke City	64.5800	Oct. 11, 1962.
Arlington Trust Co., Inc	80.0100	Oct. 13, 1960.
Community State Bank	82.4438	Apr. 2, 1942.
Bank of Buffalo	54.9409	Do.
Bank of Commerce	64.4857	Dec. 31, 1941.
Bank of Crisfield	90.5850	Jan. 9, 1963.
Republic Bank & Trust Co	50.4000	Dec. 12, 1963.
County Bank & Trust Co	14.9925	May 26, 1947.
Pullman Bank & Trust Co	14.8302	Mar. 5, 1946.
Standard Bank & Trust Co	20.1031	June 27, 1947.
First National Bank of Lockport	14.9938	Oct. 29, 1962.
First National Bank of Washington	78.2920	Feb. 6, 1959.
Valley National Bank	69.2311	Jan. 12, 1962.
First National Bank of Lexington	52.3760	Aug. 19, 1963.
Round Hill National Bank	62.4750	Jan. 21, 1965.
Shenandoah Valley National Bank	64.4589	Sept. 25, 1961.
First National Bank of Harrisonburg	19.7575	Mar. 30, 1962.
American National Bank of Maryland	45.4411	Dec. 7, 1955.
Peoples Bank of Buena Vista	57.3900	Feb. 18, 1963.
National Bank of Georgia	54.6385	Apr. 2, 1942.
Valley Fidelity Bank & Trust Co	36.0390	Apr. 2, 1942.
Union Trust Co. of the District of Columbia	66.6676	Oct. 18, 1946.
Peoples National Bank of Leesburg	87.5000	Dec. 4, 1962.
Clarendon Trust Co	55.2993	Sept. 5, 1961.
Northeastern Insurance Co. of Hartford	60.9413	1949.
United Security Insurance Co	99.8250	1947.
Hawkeye-Security Insurance Co	80.2822	1947.
Bankers Security Life Insurance Society	39.9060	1917.
United Services Life Insurance Co	13.2451	1953.
Bankers Financial Life Co	69.9128	Dec. 23, 1964.
Bradford Speed Packaging & Development Corp	53.3000	Sept. 23, 1963.
Kliklok Corp	80.0000	Dec. 31, 1965.
Certipak Corp	100.0000	June 24, 1966.
Kliklok International, Ltd	100.0000	Feb. 1, 1965.
Pierce Governor Co., Inc	33.7015	Nov. 29, 1965.
Central Manufacturing, Inc	100.0000	November 1966.
Woodman Co., Inc	68.8235	Dec. 28, 1964.
Foster Wheeler Corp	12.9972	Sept. 23, 1963.
Intermediate Credit Corp	100.0000	Jan. 11, 1955.
Financial General Industries, Inc	100.0000	Jan. 27, 1964.

SCHEDULE A.—INVESTMENTS IN SUBSIDIARY AND AFFILIATED COMPANIES (STATED AT VALUATION BASIS)

	Percent ownership, 1966	Dec. 31— 1966	Dec. 31— 1965
SUBSIDIARY COMPANIES			
Banks			
First National Bank of Washington (District of Columbia)	78.3	$3,372,667	$3,553,993
Union Trust Co. of the District of Columbia	66.7	8,223,396	7,804,311
National Bank of Georgia (Atlanta)	54.6	3,316,626	3,133,283
Bank of Crisfield (Maryland)	90.6	827,503	782,603
Citizens National Bank in Pocomoke City (Maryland)	64.6	317,342	328,424
Chesapeake National Bank (Towson, Md.)	50.4	588,119	570,291
Bank of Buffalo (New York)	54.9	3,161,100	3,419,487
Bank of Commerce (New York City)	64.5	7,988,242	7,668,525
Community State Bank (Albany, N.Y.)	82.4	1,619,711	1,561,068
Alexandria National Bank (Virginia)	55.5	2,345,587	2,246,706
Arlington Trust Co., Inc. (Virginia)	80.0	4,133,898	3,761,747
Clarendon Trust Co. (Arlington, Va.)	55.3	1,739,203	1,656,976
Peoples Bank (Buena Vista, Va.)	57.4	118,958	108,221
Valley National Bank (Harrisonburg, Va.)	69.2	652,836	601,899
Peoples National Bank of Leesburg (Virginia)	87.5	1,161,971	1,105,917
Shenandoah Valley National Bank (Winchester, Va.)	64.4	1,222,783	1,154,009
First National Bank of Lexington (Virginia)	52.4	232,331	207,663
Republic Bank & Trust Co. (Herndon, Va.)	50.4	231,680	238,812
Round Hill National Bank (Virginia)	62.5	305,268	317,778
Total		41,559,221	40,221,713
Insurance Companies			
Hawkeye-Security Insurance Co	80.3	6,066,051	5,991,646
United Security Insurance Co	99.8	5,422,534	5,097,888
Northeastern Insurance Co. of Hartford	60.9	4,554,237	5,508,403
Bankers Financial Life Co	69.9	1,202,052	1,097,448
Total		17,244,847	17,695,385
SUBSIDIARY COMPANIES—Continued			
Other Subsidiaries			
Bradford Speed Packaging & Development Corp	53.3	$5,958,705	$5,785,727
Intermediate Credit Corp	100.0	6,677,958	10,282,541
H. G. Smithy Co	63.8	1,451,763	
National Mortgage Corp	89.3	3,440,009	3,358,473
American Installment Credit Corp	100.0	212,233	184,895
Industrial Agency, Inc	100.0	210,410	146,606
Thomas J. Fisher & Co., Inc			115,863
Total		17,951,078	19,874,105
Total, subsidiary companies		76,755,173	77,791,203
AFFILIATED COMPANIES			
Banks			
Pullman Bank & Trust Co. (Chicago)	14.8	766,735	740,995
Standard Bank & Trust Co. (Chicago)	20.1	429,256	419,652
County Bank & Trust Co. (Blue Island, Ill.)	14.9	191,215	184,530
First National Bank of Lockport (Illinois)	14.9	265,205	264,544
American National Bank of Maryland	45.4	6,008,232	7,657,160
First National Bank of Harrisonburg (Virginia)	19.8	777,106	790,703
Valley Fidelity Bank & Trust Co. (Knoxville)	36.0	1,849,535	1,849,535
Total		10,287,284	11,907,119
Insurance Companies			
Bankers Security Life Insurance Society	39.9	3,088,070	7,068,440
United Services Life Insurance Co	13.3	2,907,186	7,377,496
Total		5,995,256	14,445,936
Total, affiliated companies		16,282,540	26,353,055
Total investments		93,037,713	104,144,258

Mr. DIRKSEN. Mr. President, in instances where distributions were required by the enactment of new legislation with regard to actions by the Federal Communications Commission and orders of the Securities and Exchange Commission, Congress has permitted the postponement of capital gains taxes. This was also done in connection with the Bank Holding Company Act of 1956. Granting the same treatment now as was granted in 1956, seems the fairest and most appropriate type of legislation.

The following summary shows the manner in which the Federal Communications Commission and the Securities and Exchange Commission grant tax treatment similar to that in H.R. 4765 when they require divestiture be made.

ORDERS OF THE FEDERAL COMMUNICATIONS COMMISSION

Section 1075 of the Internal Revenue Code deals with gains from a sale or exchange to effectuate policies of the Federal Communications Commission. The Federal Communications Commission, pursuant to a policy of limiting common ownership of directly competing radio facilities, may cause any such common control to be eliminated as a condition to renewal of a license. In such event, a taxpayer required to divest himself of the control of one or two of such facilities may treat the disposition of such property as an involuntary conversion. In order to obtain this benefit the taxpayer must show that the disposition has been certified by the Federal Communications Commission to be necessary or appropriate to effectuate its policies.

If the property—which may be corporate stock—is converted into property similar or related in use of if the taxpayer purchases replacement property within a limited period of time which costs as much as the amount realized upon the divestiture, no gain is recognized to the stockholder. The results under this section of the code are similar to those under sections 1101 to 1103 with reference to bank holding companies in that divestitures must be certified by a Government agency and taxation of the transaction is postponed until such time as there is an ultimate disposition of the properties or replacement properties involved.

ORDERS OF THE SECURITIES AND EXCHANGE COMMISSION

Section 1081 of the code deals with nonrecognition of gain or loss on exchanges or distributions in obedience to orders of the Securities and Exchange Commission pursuant to the policy of the Public Utility Holding Company Act. Specifically, if stock or securities of a registered holding company or a majority-owned subsidiary company are exchanged for stock or securities or if property is exchanged for property, no gain is recognized to the corporation, and if the property or securities received by the corporation are distributed to its stockholders, no gain is recognized to the shareholders at that time. The order of the Securities and Exchange Commission in this situation replaces the certification required in the case of the Federal Communications Commission or the Federal Reserve Board and the tax effect on the corporation and the stockholders of the corporation is the same in that no tax is payable by the corporation or the stockholder at the time of the involuntary exchange or distribution.

In all three cases—the Bank Holding Company Act, the Federal Communications Act, and the Public Utilities Holding Company Act—the basis of the taxpayer in the assets distributed—stock or property—is reapportioned so that upon the eventual disposition of the substituted stock or assets, a gain is recognized and becomes taxable. No gain or loss is recognized at the time of the involuntary distribution necessary to effect the public policy of the statute.

Mr. WILLIAMS of Delaware. Mr. President, I send to the desk one other amendment.

The PRESIDING OFFICER (Mr. BAYH in the chair). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 4, strike out lines 10 through 22 and insert the following:

"(1) ADDITIONAL DEDUCTION FOR TAXABLE YEAR BEGINNING IN 1967.—There shall be allowed as a deduction, but only for a taxable year beginning in 1967 and ending before 1968, if bonds are purchased as required by paragraph (2), an amount representing the amount required by State law or regulation to be set aside for such taxable year in a reserve for mortgage guaranty insurance losses resulting from adverse economic cycles, except that the deduction allowable for such taxable year."

On page 6, strike out lines 10 through 16 and insert the following:

"(4) ADDITION TO ACCOUNT.—The only addition to the mortgage guaranty account shall be an amount equal to the amount allowed as a deduction under paragraph (1) for the taxable year beginning in 1967 and ending before 1968.

"(5) SUBTRACTIONS FROM ACCOUNT AND INCLUSION IN GROSS INCOME.—There shall be subtracted for any taxable year from"

On page 7, in lines 1 and 5, strike out "(1)(A)" and insert: "(1)".

Mr. WILLIAMS of Delaware. Mr. President, I wish to explain the amendment briefly.

This amendment would modify section 2 of the bill to make it apply only for this year. That section provides new income tax rules for 1967 and future years, for private companies which guarantee mortgages and are regulated by State insurance commissions. We all realize that there is a problem, and that this problem must be handled by legislation. However, at the present time the industry and the taxpayers affected have not appeared at hearings and have not submitted data to the Finance Committee. For this reason I do not have the information required to form an opinion as to whether the solution embodied in the bill is good, bad, or indifferent. Furthermore, I believe that no member of the Finance Committee or of this entire body has such information. Accordingly, I believe it would be proper to make the pending legislation temporary; that is, to make it apply only up to the end of this year. If this is done, then next year the Finance Committee can hold hearings and receive written submissions so that this body can legislate with a full understanding of the problems it is dealing with.

While I respect the Treasury experts who looked over this legislation, I believe we should never forget that the sole responsibility for legislation rests with us and that, therefore, we should not adopt permanent legislation until all of the facts have been laid before us in hearings and before we have had an adequate opportunity to study and consider the solutions recommended. No one will be hurt by taking time to study the problem, since under my amendment the relief provided by the bill will be available for this year.

My amendment does not change the portion of the bill which deals with the income tax treatment of these guarantee companies for years before 1967. As to these years, the bill provides that all companies are to be treated in the same manner as the two companies which obtained a ruling from the Internal Revenue Service. Of course, it is fair to treat all taxpayers alike for the past whether or not they received rulings.

Mr. President, I understand that this amendment, likewise, is acceptable.

Mr. LONG of Louisiana. Mr. President, I was unaware of the fact that the Senator planned to offer this amendment to which he makes reference. Does this amendment have to do with the problem that the Treasury has been trying to work out for such a long period of time, with regard to tax mortgage guarantee and insurance companies?

Mr. WILLIAMS of Delaware. That is correct. I have talked with the sponsor of the amendment in committee and he has agreed to that procedure. It would take care of the year 1967. However, we are writing new legislation, which may be good or bad, but there has been no hearing held. I thought it was proper to help clear up the year 1967 and then the committee can properly deal with the problem in new legislation next year. I have talked to the sponsor of the amendment and he is agreeable to it.

Mr. LONG of Louisiana. I would not worry about taking the amendment if it is something which the House could either accept or reject, and at the same time act on the merits of the amendment which the Senator seeks to amend.

Mr. WILLIAMS of Delaware. In conference, the House could accept or reject it. I have the feeling that they will accept it. There is nothing in the committee amendment that would handicap the conferees from working their will for the year 1967. It is not so intended.

Mr. LONG of Louisiana. I would prefer that the conferees would be free either to accept the Senator's amendment or drop it and accept the committee amendment in conference, but as I understand the amendment that is not the case. Frankly, I would hope to see the end of this problem. We have heard so much about it that I hope someday we will come to the end of the road. If we can understand that this amendment as revised by the Senator's amendment is something that could be dropped out in conference, if the conferees did object, I would be willing to go along.

Mr. WILLIAMS of Delaware. This amendment would in no way handicap either House or Senate conferees in finding a temporary solution to this problem; but, nevertheless, it is a reasonable solution to the problem for 1967.

Mr. CARLSON. Mr. President, will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. CARLSON. The Senator from Delaware knows that he and I have had many conferences on this particular amendment. It has been difficult to try to work out something on it. It needs to be accepted all around. I sincerely hope that the distinguished chairman of the Finance Committee will not object in any way, because I believe they can work it out in conference. I do not think there will be any hindrance to the completion of this piece of legislation. I think that the Senator's amendment should be agreed to.

Mr. LONG of Louisiana. Mr. President, I shall not object.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 437

Mr. NELSON. Mr. President, I call up my amendment No. 437 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I shall make a brief explanation of it to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment offered by Mr. NELSON is as follows:

At the end of the bill insert the following new section:

"SEC. 6. (a) Section 172 (b) of the Internal Revenue Code of 1954 (relating to net operating loss carrybacks and carryovers) is amended—

"(1) by striking out 'subparagraph (D)' in paragraph (1) (A) (i) and inserting in lieu thereof 'subparagraphs (D) and (E)';

"(2) by striking out 'subparagraphs (C) and (D)' in paragraph (1) (B) and inserting in lieu thereof 'subparagraphs (C), (D), and (E)';

"(3) by adding at the end of paragraph (1) the following new subparagraph:

"'(E) In the case of a taxpayer which is a domestic corporation qualifying under paragraph (3) (E), a net operating loss for any taxable year ending after December 31, 1966, and prior to January 1, 1969, shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 3 taxable years following the taxable year of such loss'; and

"(4) by adding at the end of paragraph (3) the following new subparagraphs:

"'(E) Paragraph (1)(E) shall apply only if—

"'(i) the amount of the taxpayer's net operating loss for the taxable year exceeds the sum of the taxable income (computed as provided in paragraph (2)) for each of the 3 preceding taxable years of the taxpayer,

"'(ii) the amount of the taxpayer's net operating loss for the taxable year, increased by the amount of the taxpayer's net operating loss for the preceding taxable year or decreased by the amount of the taxpayer's taxable income for such preceding year, exceeds 15 percent of the sum of the money and other property (in an amount equal to its adjusted basis for determining gain) of the taxpayer, determined as of the close of the taxable year of such loss without regard to any refund or credit of any overpayment of tax to which the taxpayer may be entitled under paragraph (1)(E),

"'(iii) the aggregate unadjusted basis of property described in section 1231(b)(1) (without regard to any holding period therein provided), the basis for which was determined under section 1012, which was acquired by the taxpayer during the period beginning with the first day of its fifth taxable year preceding the taxable year of such loss and ending with the last day of the taxable year of such loss, equals or exceeds the aggregate adjusted basis of property of such description of the taxpayer on, and determined as of, the first day of the fifth preceding taxable year, and

"'(iv) the taxpayer derived 50 percent or more of its gross receipts (other than gross receipts derived from the conduct of a lending or finance business) for the taxable year of such loss and for each of its 5 preceding taxable years, from the manufacture and production of units within the same single class of products, and 3 or fewer United States persons (including as one person an affiliated group as defined in section 1504(a)) other than the taxpayer manufactured and produced in the United States, in the calendar year ending in or with the taxable year of such loss, 85 percent or more of the total number of all units within such class of products manufactured and produced in the United States in such calendar year.

"'(F) For purposes of subparagraph (E)(iv)—

"'(i) the term "class of products" means any of the categories designated and numbered as a "class of products" in the 1963 Census of Manufactures compiled and published by the Secretary of Commerce under title 13 of the United States Code, and

"'(ii) information compiled or published by the Secretary of Commerce, as part of or in connection with the Statistical Abstract of the United States or the census of manufactures, regarding the number of units of a class of products manufactured and produced in the United States during a calendar year, or, if such information should not be available, information so compiled or published regarding the number of such units shipped or sold by such manufacturers during a calendar year, shall constitute prima facie evidence of the total number of all units of such class of products manufactured and produced in the United States in such calendar year.'

"(b) No interest shall be paid or allowed with respect to any overpayment of tax resulting from the application of the amendments made by subsection (a) for any period prior to the date of the enactment of this Act.

"(c) The amendments made by subsection (a) shall apply with respect to net operating losses sustained in taxable years ending after December 31, 1966."

Mr. NELSON. Mr. President, the amendment proposes a change in the current tax law which permits losses to be carried back 3 years and forward 5. The amendment also provides that business losses may be carried back 5 years and forward 3. It would, in the nature of a draft, apply only to American Motors Corp., which is desperately in need of this tax rebate at this time.

It will not affect the loss to the Treasury Department. It will get the tax rebate now instead of at some future time when American Motors makes a profit and is able to write off the tremendous losses which it experienced in the past year.

It is important to this company. This is not a new or novel concept. We have made these adjustments four times since 1939. The last time was in 1965. The amount of the tax rebate involved is $20 million.

The amendment in question, as proposed in S. 2262, which Senator PROXMIRE and I introduced earlier this session, amends the net operating loss carryback provisions of the Internal Revenue Code of 1954.

This bill is intended primarily to aid American Motors Corp., which suffered a loss of $40,000,000 in 1966 and an even larger loss in 1967. The corporation's problems in competing in a heavily concentrated industry have been markedly increased by these losses and by their effect upon the company's working capital position.

Let me make one remark at the outset. With the assistance authorized by this bill, I am certain that American Motors will be a strong, independent, vital American automobile manufacturing company and that it will continue to contribute greatly to the American economy. This contribution will not only be a contribution to the internal economic growth and well-being of our Nation, but will also contribute to our favorable balance of trade by bringing moneys back to the United States through the export of American Motors products abroad.

I would also say, at the outset, that if this amendment is adopted, the Treasury of the United States will gain, and not lose a single cent on this transaction. Further than that, the entire economy of our country will benefit, and we will preserve effective competition, in an industry that is already highly overconcentrated. And we will preserve through this means, the independence of a smaller organization in a field dominated by giants.

American Motors is a manufacturing concern of significant national value. It is of prime importance to the national economy that it be maintained as a healthy independent competitive force in the passenger automobile industry.

This situation is an urgent one, and adoption of the proposed amendment will give American Motors the speedy relief it needs, in the form of an income tax refund.

There has been, since the first of this year, a revitalization of American Motors by its management. Energetic moves have been made to turn the company around and restore it to a prosperous condition. Because of what has been done in 10 short months, American Motors has attracted highly favorable attention from all. It has undertaken major organizational changes and improvements in its product lines and has stimulated confidence in its capacities and its abilities.

American Motors is ready to go. It has just completed a 6-year program in investment in plant and equipment. Its engine and axle manufacturing facilities are the most modern in the Nation. Its fundamental need, at the present time, is not for funds for new equipment. What it needs is relief from a drastic operating capital squeeze. With the passage of this amendment, American Motors will succeed. Already, its sales of its new models are on the rise and consumer interest is strong all over the Nation.

Although as a Senator from Wisconsin, I am deeply interested in and concerned regarding the position of American Motors and the effect it has on the livelihood of my fellow citizens of Wisconsin, it is not Wisconsin alone that has a stake in American Motors. Every State in the Nation is benefited by the operations of American Motors, and every State, to a greater or lesser degree, would be affected adversely if its operations should be curtailed.

American Motors is one of the largest employers in my own State of Wisconsin. The company's major manufacturing plants are located in Kenosha and Milwaukee and contribute importantly to the economy of my State. However, as I have said, my State alone is not the only one involved. The importance of the role of American Motors as an employer, and, in terms of the business and employment which its operations generate throughout the United States among its many dealers and independent suppliers, cannot be overemphasized.

Although American Motors is a small company in the passenger car industry, it is still a large company in absolute terms. In its 1966 fiscal year, it employed

more than 27,000 people, had net sales in excess of $870 million, paid wages and related benefits of over $230 million and invested more than $57 million in property, plant, and equipment.

The total contribution of American Motors to our Nation's economy—based on 5-year averages and including the "multiplier" effect of its operations on its dealers and suppliers—has amounted annually to $1.4 billion in retail sales, $784 million in payrolls and employee benefits and $295 million in Federal, State, and local taxes. It is estimated that nearly 100,000 persons are engaged in the manufacture or distribution of American Motors products as employees of the company, its dealers and its suppliers, and many of these people depend for their livelihood on the success of American Motors.

American Motors is not a large, integrated manufacturing operation, as are the "Big Three" automobile manufacturing companies. It purchases the major part of the components of its automobiles from independent producers located throughout the Nation. In 1966, for example, 69 percent of the American Motors' sales dollar went for purchases from independent establishments. It is a very important customer of many of these firms, and in certain instances, if it were not for American Motors, there is serious question as to whether such companies could survive. When American Motors' business suffers, its suppliers also suffer.

For its fiscal year ended September 30, 1966, purchases by American Motors from suppliers included purchases of over $100 million from manufacturers and suppliers in Indiana; more than $44 million from manufacturers and suppliers in Michigan; more than $30 million from manufacturers and suppliers in Illinois; more than $24 million from manufacturers and suppliers in Ohio, more than $20 million from manufacturers and suppliers in Wisconsin; more than $15 million from manufacturers and suppliers in New York; more than $9 million from manufacturers and suppliers in Missouri; more than $8 million from manufacturers and suppliers in Pennsylvania; more than $5 million from manufacturers and suppliers in West Virginia; more than $4 million from manufacturers and suppliers in California; more than $3,800,000 from manufacturers and suppliers in North Carolina; more than $2,500,000 from manufacturers and suppliers in Tennessee; and from approximately $1 million to $2 million from manufacturers and suppliers in the States of Colorado, Iowa, Mississippi, Kentucky, Arkansas, Georgia, and Nebraska. In addition, there are many smaller suppliers all over the United States who depend upon American Motors as a customer for a significant portion of their sales.

American Motors carries on its business through franchised dealers located throughout the United States. It has approximately 2,400 dealers in its nationwide automobile distribution and sales system. Roughly 35,000 people were employed in these retail establishments in 1966. These dealers make significant contributions to the communities in which they operate, through the workers they employ, the goods and services they purchase and the taxes they pay. Moreover, automobile dealers operate from buildings which are largely single purpose facilities and are located in marketing areas where all other U.S. auto companies are fully represented.

It is estimated that the total investment of American Motors dealers in their facilities exceeds $250,000,000, and these investments would be adversely affected by any marked reduction in the scope of the company's operations. It might be possible, if there were no American Motors, that some of these dealers could work out relationships to represent the Big Three. But certainly not all of them could.

The significance of American Motors as a valuable industrial establishment is further indicated by the fact that it is estimated to have contributed approximately $2 billion to the gross national product over the past 5 years.

Additionally, American Motors, during the past 5 years, has paid over $400 million to Federal tax revenues, in the form of income, excise and payroll taxes.

American Motors also makes a valuable contribution to the U.S. balance of trade which it is in the general interest to preserve. To a degree far in excess of its share of the market, American Motors has relied on the export of vehicles from the United States to meet the worldwide demand for automotive transportation. In 1966, for example, it exported more than 32,000 automobiles from the United States and its share of the export market, excluding Canada, amounted to 18 percent of the entire domestic passenger car industry. It should be noted that American Motors' share of automobile units exported, excluding Canada, rose from 11 percent to 18 percent during the past 5 years. Conversely, the exports of the Big Three are declining because they have manufacturing facilities overseas.

During the last 5 years, American Motors has contributed more than $150 million to the favorable trade balance of the United States. Its share of the export market for cars, since it does not have manufacturing facilities abroad such as the Big Three have, is in proportion larger than that of any of the Big Three.

In 1966, more than 650,000 foreign cars, most of them competitive with American Motors, were imported into this country. American Motors production in 1966 was 279,000 cars, or less than one-third of those imported. American Motors, in addition to looking to a larger share of the export market, is devoted to being an American manufacturer of a compact car. Its desire to produce a car that not only Americans want but one that others want. If this can be accomplished, it will be only natural that American Motors will increase its exports and that foreign imports of automobiles into this country will lessen. American Motors will then, through its competitive position, take a good share of such business.

The portion of the export trade that American Motors now enjoys, would be largely lost if American Motors' exports should be substantially decreased or discontinued. Other domestic manufacturers of automobiles have substantial manufacturing facilities overseas and available data indicates that their exports are declining as time passes. American Motors, however, has determined to meet the challenge of low-priced foreign automobiles imported into the United States, both by the Big Three and by foreign companies. This effort, which has been greeted with considerable success, is making a helpful contribution to the national balance of trade, which is, of course, influenced by the volume of automotive imports.

American Motors represents the sole remaining independent domestic producer of passenger automobiles which is of significant size in relation to the size of the Big Three, which have about 97 percent of domestic passenger car production. A further shrinkage of American Motors' share of the market would only increase the already heavy concentration now existing in the automobile industry.

During recent days, we have seen newspaper stories of possible Department of Justice action to break up one of the largest of the Big Three automobile manufacturers because of certain antitrust implications. If our Government really wants competition in the automobile industry, let it assist competition that already exists rather than seek competition through a long, drawn out court fight, which probably will end in a compromise settlement. Let it do what is necessary to preserve a vital, independent force in the automobile industry, an industry dominated by the Big Three. American Motors represents actual present competition that can be preserved and that is really competitive. It is not some future competition. Whatever steps the Government may wish to take in the future with respect to competition in the manufacture and sale of automobiles is for the Government to decide. At least, here we have an established, basic, independent competitor.

Studies indicate that it would require an initial investment of about $1 billion for plant, working capital, and marketing organization, if a new company wanted to enter the automotive manufacturing field. Under such circumstances, we all know that few would venture to enter a field so dominated by the Big Three.

The whole problem and the reason for this proposed amendment, is that due to its recent losses, American Motors is faced with a shortage of working capital at a most critical time in its recovery.

One of the remedies generally available to a corporation sustaining substantial losses is a quick refund of Federal income taxes paid in the 3 years prior to the year of loss, by means of a carryback of those losses as deductions against the income of the preceding 3 years.

However, American Motors' losses for its fiscal year just closed greatly exceeded its earnings in the years to which those losses may be carried back under present law. It can therefore obtain relatively

little benefit under the law as it now stands. The right to carry such unabsorbed losses forward and apply them against income of future years will be of little value to American Motors, since it needs a refund now and not a refund 3 or 4 years in the future.

The law now allows a 3-year carryback and a 5-year carryforward. The present amendment will extend the loss carryback period to 5 years and will reduce the carryforward to 3 years. Consequently, the total carryback and carryforward period will be the same as the present 8-year period.

It cannot be emphasized too strongly that all the bill will do is to provide a refund to American Motors of taxes it previously paid in earlier years. The principle of this refund is entirely consistent with the basic philosophy of Congress.

The intention of the loss carryback and loss carryforward provisions is to provide that businesses with cyclical years of profit and loss should not pay higher taxes over such years than less cyclical businesses, which have approximately the same average income over the same period of time.

It should be remembered that the Congress has extended or changed the number of years in the loss carryback and carryforward period on a number of other occasions in order to accomplish its purpose more fully. It has recognized that extending the carryback period is particularly useful since it promptly provides liquid funds for a business experiencing economic reverses.

The present amendment is extremely limited in scope. It would be effective only for 2 taxable years, and would not apply to any taxable year ending after December 31, 1969. It would apply only to companies that have losses in that period which exceed the amount that can be carried back effectively under present law. It would benefit only companies that have made heavy investment in plant and equipment, and only companies that are smaller producers and consequently have only a small share of the total market in industries dominated by three or less other manufacturers.

Moreover, I am certain that the proposed amendment will not involve any ultimate loss of revenue for the Federal Government. If the amendment is adopted, the current losses of American Motors will be carried back to provide needed tax relief at this time. Consequently, such losses will not be available as deductions from its income in future years, as they are under present law.

If this amendment should not be adopted and a speedy tax refund should not now be provided to American Motors, and if economic exigencies should force a future merger of the company with another corporation, the acquiring company in all likelihood would be able to apply the loss of American Motors as a carryforward against its own future earnings.

Consequently, whether or not the proposed amendment is adopted, it is reasonably certain that the current loss of American Motors will be more or less fully used as Federal income tax deductions, either by American Motors or by another corporation. The proposed amendment only accelerates the time of the use of such loss, in order to achieve a more important objective; namely, the continuance of a meaningful fourth competitor and major employer in the passenger automobile industry.

Additionally, far from causing any loss of revenue, this amendment helps to preserve an integral and important source of Federal, State, and local income. If the amendment does not pass and American Motors is forced, because of a temporary shortage of working capital, to restrict its operations in the future, the Federal Government will suffer a substantial revenue loss in the form of a reduction in the income, payroll and excise taxes now paid by American Motors. In addition, there would be a further reduction in the even more substantial revenues which the operation of American Motors generates and which are collected from its employees, its dealers, its suppliers and subcontractors.

The Federal Government, furthermore, would inevitably be forced to spend additional Federal funds to help relieve the economic dislocation and human distress which would necessarily result from any major contraction of the operations of American Motors. We know that displaced employees have a high degree of reluctance or capacity to relocate. This is especially true of older employees. It would take a substantial period of time to absorb a major number of displaced employees in local labor markets or even in other areas. Federal funds and personnel in all likelihood would be necessary for job retraining and relocation purposes, and for employment compensation. These expenditures also can be avoided by the adoption of the present amendment.

If American Motors were unable to continue, what would happen to its highly specialized manufacturing equipment and facilities? They would have little application to other manufacturing operations. And no doubt any one of the Big Three could absorb American Motors' share of the market without even a resort to new facilities.

It should also be recognized that American Motors has played and continues to play a useful part within the automotive industry in the development of new product concepts. In the automobile business, as in other industries dominated by large companies, smaller producers have historically played a major role as innovators and pioneers.

Innovation is, of course, a major factor in economic growth, and a company which contributes to economic growth confers a benefit on the entire Nation.

American Motors has pioneered in such automotive innovations as modern car heating and ventilating, smaller and more economical cars, improved body painting, low-cost air-conditioning and the application to automobile design of aircraft construction principles. The 1950 Rambler automobile, which set the style for "compact" cars for years, is still regarded as one of the most influential design concepts in the automotive industry.

What is the sense of eliminating a highly satisfactory competitive enterprise, risking economic disruption and human dislocation, when all this can be avoided by granting the present relief, which will not cost the Government a thing?

No one should feel that American Motors has not attempted to handle this matter itself. At present, it has pledged practically all of its assets for short-term loans now totaling $63,500,000, which loans mature at the end of this year. Its credit is fully extended and American Motors, at present, has no additional source of funds to which it can turn.

This valuable manufacturing establishment can now be assisted to preserve and strengthen itself, and to continue to serve the functions I have just reviewed, if we now pass the proposed amendment.

Mr. PROXMIRE. Mr. President, will my colleague yield to me?

Mr. NELSON. I am happy to yield.

Mr. PROXMIRE. I want to say to my able colleague that I support his amendment wholeheartedly.

This is immensely important to the biggest employer in the State of Wisconsin. It cannot result in a Treasury loss, whether the company fails or whether it succeeds. If this amendment does not pass and the company succeeds, as the Senator has stated so well, it will be able to reduce its tax liability against its profits. If it fails, it is absolutely certain that another firm would buy this attractive loss, attractive precisely because it could write the loss off against its profits and pick up the $20 million. The overwhelmingly important point is that this bill will help the fourth competitor in the automobile industry stay alive. If American Motors fails, the vital auto industry will be wholly concentrated in the Big Three. American Motors has done a great job throughout the years as a vigorously competitive innovator. In some ways it has been the prime innovator in the industry, the first successful compact car and many other innovations were the product of American Motors. It is responsible for an impressive 18 percent of our auto exports and also greatly helps our balance of trade by offering competition with imported autos far out of proportion to its size.

American Motors now has excellent top management, a fine new product, the most provocative advertising in the industry. Its one big need is for immediate working capital. This bill will provide it.

And I point out that this company has paid far, far more than this bill would refund in taxes throughout the years. If it succeeds it will pay a great deal more in the future.

The amendment safeguards the Treasury, constructively preserves competition in a vital industry, helps our balance of payments, it deserves overwhelming support.

I sincerely hope that the amendment will be acceptable to the distinguished Senator from Louisiana, chairman of the Finance Committee.

Mr. LONG of Louisiana. Mr. President, this amendment has been discussed on

the Senate floor a number of times by both Senators from Wisconsin who feel that this is vital to their State and to the American Motors Corp.

Some time ago the Senator from Indiana [Mr. HARTKE] also raised this matter, because it is important to his State. The Budd Manufacturing Co. in Indiana manufactures many of the parts that go into the automobiles American Motors makes. He felt that this would help to insure the survival of American Motors in a competitive economy.

We did vote on this matter informally in the committee. I believe the vote was 8 to 1. It was not an official rollcall vote, however—just a show of hands.

The Senator from Delaware [Mr. WILLIAMS], I believe, opposes the amendment. Most members of the committee felt that it would be appropriate to offer it on some revenue bill on the floor of the Senate.

I did not feel that it should be offered on the Social Security bill because this is the kind of thing which, in my judgment, should be offered to a bill which the President should be privileged to veto if he strongly disagreed with it.

I would be willing to take the amendment to conference and see what the House conferees think about it.

If it should be the will of the Senate to agree to this amendment, I would be willing to urge the House to consider it.

Mr. LAUSCHE. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. I yield.

Mr. LAUSCHE. I favor the proposal to extend this tax benefit to American Motors. I think it is necessary that competition in the automobile industry be kept as broad as possible because the net result would be a help to American buyers of automobiles.

American Motors has had a long, hard struggle to stay in business. Basically, it has contributed to the general economy of the Nation. To allow it now to be eaten up and destroyed without the help that can be provided by this amendment would not be in the interest of the general economy, or in the interest of buyers of automobiles in this country.

Therefore, I urge that the amendment be accepted and taken to conference to be considered by the House conferees.

Mr. NELSON. I thank the distinguished Senator from Ohio for his remarks.

Mr. DIRKSEN. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. I yield.

Mr. DIRKSEN. Mr. President, I have only one comment to make.

I am pretty sure that the Treasury is opposed to this amendment. However, I know that an extreme condition prevails here and I would have no objection to seeing the amendment go to conference, without indicating that I was for the amendment, so that its merits can be examined, due to the extremity of the situation which evidently confronts American Motors at the present time.

Therefore, I think that it deserves to be considered.

Mr. WILLIAMS of Delaware. Mr. President, I object to the amendment and will vote against it. I hope that it will not be accepted. This amendment is not only opposed by the Treasury Department because it will establish a new principle, but it is also definitely a special legislation involving approximately $20 million going to one company.

I see no basis for it. It was not approved in committee, and I hope it will be rejected here. I want to make it clear that I do not support it. I think we are establishing a bad principle when we start dealing with special legislation for one particular company.

I recognize we need a competitive automobile industry, and I hope this company can survive competitively. But if the only way for it to survive competitively is to dip into the Federal Treasury for donations from the American taxpayer, then it does not justify survival.

Let us face the fact that this $20 million will not make the difference between survival and not surviving. It merely means that the company will have $20 million to pay on the mortgages coming due in December, which money it would otherwise not have. This is not only to bail out the automobile company, but also the lending institutions.

Mr. DIRKSEN. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. DIRKSEN. For the record, I want to point out that the distinguished Senator from Delaware will certainly be a member of the conference committee when this matter goes to conference, and there will be adequate opportunity to present his views and point out the difficulties to be resolved and, likewise, the precedent to which he refers. My views are quite in consonance with the views expressed by the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, I ask for a division.

Mr. LONG of Louisiana. Mr. President, I believe I should say that there are precedents for this amendment. I refer to the 5-year carryback provided under the Trade Expansion Act of 1962 for companies suffering losses as a result of trade renegotiations. I also refer to the 7-year carryforward (instead of the regular 5-year carryforward) for regulated transportation companies. I further refer to the 10-year carryforward for foreign expropriation losses. In this latter case to obtain the 10-year carryforward they must forego the regular 3-year carryback. Thus this amendment is just the reverse of the foreign expropriation loss carryover provision.

Mr. WILLIAMS of Delaware. Mr. President, I ask for a division on the amendment.

On a division, the amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4765) was passed.

Mr. DIRKSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG of Louisiana. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read: "An act to amend the Internal Revenue Code of 1954 with respect to the income tax treatment of certain distributions pursuant to the Bank Holding Company Act of 1956, as amended, and for other purposes."

Mr. LONG of Louisiana. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG of Louisiana, Mr. SMATHERS, Mr. ANDERSON, Mr. HARTKE, Mr. WILLIAMS of Delaware, and Mr. DIRKSEN conferees on the part of the Senate.

FOREIGN SERVICE INFORMATION OFFICER CORPS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill, S. 633, which was laid aside temporarily, again be laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 633) to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the United States Information Agency through establishment of a Foreign Service Information Officer Corps.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Their being no objection, the Senate proceeded to consider the bill.

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I should like to ask the distinguished majority leader about the program for tomorrow, if any, and the program for early next week, as much as he can tell us at this time.

Mr. MANSFIELD. Mr. President, I hope it will not take too long to dispose of the bill, S. 633, and then I hope it will be possible to take up H.R. 10595, an act to prohibit certain banks and savings and loan associations from fostering or participating in gambling activities.

Then we will have to wait for the District of Columbia appropriation conference report and any others which may come along in the shank of the evening.

It is my intention, if the Senate concurs, to lay down the military construction appropriation bill, which has just been reported this afternoon, and have it as the pending business for Monday next.

There will be no session tomorrow. I must apologize to the Senate for making the announcement so late, because I had anticipated coming in early, after discussing the situation with the minority leader, to take up the military construction appropriation bill tomorrow, but circumstances intervened which did not make it possible. But next week the Senate will consider the military construction appropriation bill, social security, elementary-secondary education, all of which will be on the calendar, some time or other.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Senate bill 633 is the pending business.

PUBLIC WORKS AND ATOMIC ENERGY COMMISSION APPROPRIATION BILL, 1968

Mr. ELLENDER. Mr. President, I ask that the Chair lay before the Senate a message from the House on the public works bill.

The PRESIDING OFFICER (Mr. BAYH in the chair) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the House amendment to Senate amendment No. 2 to the bill (H.R. 11641) making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, Interstate Commission on the Potomac River Basin, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1968, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN SERVICE INFORMATION OFFICER CORPS

The Senate resumed the consideration of the bill (S. 633) to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the U.S. Information Agency through establishment of a Foreign Service Information Officer Corps.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business, S. 633, be temporarily laid aside; that it become the unfinished business at the conclusion of morning business on Monday next; that the provisions of rule XII be suspended; and that at 2:30 on Monday afternoon, a vote be taken on the bill, the time between the conclusion of morning business and the vote to be equally divided between the Senator from Rhode Island [Mr. PELL] and the Senator from Louisiana [Mr. ELLENDER].

Mr. ELLENDER. Mr. President, reserving the right to object, would the Senator put a limitation on the length of the period for the transaction of routine morning business?

Mr. MANSFIELD. That it end not later than 12:30.

Mr. ELLENDER. With that understanding, Mr. President, I have no objection.

The PRESIDING OFFICER. The Chair hearing no objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ELLENDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC WORKS AND ATOMIC ENERGY COMMISSION APPROPRIATIONS BILL, 1968

The Senate resumed the consideration of the amendment in disagreement.

Mr. ELLENDER. Mr. President, what is the pending business?

The PRESIDING OFFICER. H.R. 11641 has been laid before the Senate. There is no question pending, however.

Mr. ELLENDER. Mr. President, as all Senators know, we have had quite a hassle during the last few weeks with the House in our efforts to retain in the public works appropriations bill the Dickey-Lincoln School project.

As was pointed out on prior occasions, this project was budgeted, and the House committee voted to include the project in the bill. However, during House debate on the bill, the House deleted the Dickey-Lincoln School project.

Mr. President, on July 25, 1967, by a vote of 233 yeas to 169 nays the House deleted the budget estimate of $1,676,000 for the Dickey-Lincoln School Dam and Reservoirs project. The Senate restored the budget estimate. In accordance with the conference agreement, the managers on the part of the House offered an amendment to the Senate amendment No. 2 which included $875,000 for the Dickey-Lincoln project. That motion was defeated by a vote of 162 yeas to 236 nays. The House then approved an amendment to Senate amendment No. 2 which was $875,000 less than the previous motion, thereby eliminating the funds for the continuation of planning on the Dickey-Lincoln School project. The Senate on November 7 amended the House figure to include $875,000 for the Dickey-Lincoln project. The House by a vote of 118 yeas to 263 nays refused to recede from their original amendment to our amendment No. 2 and again deleted funds for this project.

Mr. President, I had occasion to talk to Representative KIRWAN before the vote was taken, and I was assured by him that if the proposal failed this time, we would support it in the bill the next time. I have no doubt that if we are able to get a budget estimate for next year, we can again try to have Congress enact this worthy project.

Mr. President, I have supported the project since its inception. It has a good benefit-to-cost ratio, and I know that it would do much good for the people of the Northeast. I say here and now to my good friends, the senior Senator from Maine [Mrs. SMITH], and the junior Senator from Maine [Mr. MUSKIE], that come next year, whether the item is in the budget or not, we will try to include it in some way and have the matter before Congress again in an effort to try to complete at least the planning of this project and have it constructed at as early a date as possible.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mr. MUSKIE. Mr. President, I express my appreciation to the distinguished Senator from Louisiana for his assistance and unflagging support for this project. I know of the effort he made today, even at the last moment, to try to influence a favorable course of events in the House on this project.

As I understand the position taken by the House manager, Representative KIRWAN, the House has already spoken twice this year on this project; the bill involves other projects than Dickey-Lincoln School, the bill involves appropriations for the Atomic Energy Commission, and because of the delay in acting upon the continuing resolution, the funds for that agency would run out if there were further delay; and finally in his—Mr. KIRWAN'S—judgment it was time to button the bill up.

That was in essence Mr. KIRWAN'S position. I disagreed with that position, as did my distinguished senior colleague, Senator SMITH. I urged him, as did the distinguished Senator from Louisiana, to give this project another full and fair vote in the House today. He did not see the matter our way and persisted in his course of action.

I think it is a fair statement to make at this point that the House vote today did not reflect accurately or fairly the sentiment of the House on the merits of this project.

I think, all of these considerations being taken under advisement, that my colleague and I are well advised to go along with the judgment of the distinguished Senator from Louisiana of agreeing to the House action. This is not a retreat on the merits of the project. This is a strategic retreat designed to enable us to remobilize our forces for another fight next year. And we intend to make that fight.

As I said the other day, there are over 170 Federal public power projects in

existence today. I have been advised by the Corps of Engineers and the Department of Interior that Dickey-Lincoln School meets all of the tests as well as and, indeed, better than 75 percent of those projects, yet the Dickey-Lincoln School project has been rejected by the House up to this point.

On its merits, the Dickey-Lincoln School project deserves a continuing fight. It will get that continuing fight. We are reassured by Senator ELLENDER'S statement this afternoon that he intends to fight with us, shoulder to shoulder, next year.

I say again how much I appreciate the efforts of the Senator from Louisiana and the efforts of the distinguished senior Senator from Florida, who is present on the floor, the unflagging support of my colleagues on both sides of the aisle, the support of the distinguished Senator from Vermont [Mr. AIKEN] who is also present on the floor and, of course, my colleague, the senior Senator from Maine. I think that if we continue to receive this kind of support on the Senate side we can hope that reason will ultimately prevail on the House side, against the pressures of the private power industry, and that we can still look forward to prospects for victory in another year.

I thank the Senator.

Mrs. SMITH. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mrs. SMITH. Mr. President, it goes without saying that the people of Maine, my colleague, and I experienced great disappointment in learning of the last report from the House of Representatives on the Dickey-Lincoln School project.

It is with very great regret that we receive this news. But it is most assuring to have our distinguished chairman, who had done so much on this project and on all public works projects, give us assurance that consideration will be given again next year.

I again wish to state my appreciation, Mr. President, to the Members of the Senate, especially to the Senate and House conferees, particularly the Senate conferees, who stood by so loyally through this fight, and to give my gratitude to Senator ELLENDER for his help in the fight that he has made on this matter. It has been encouraging to know that someone so far away from Maine could understand our problems up there and go so far in supporting us in our effort to get this project.

Again, I express my thanks to Senator ELLENDER, for myself and for the people of Maine, for his efforts.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mr. HOLLAND. Mr. President, I join with my distinguished chairman, the Senator from Louisiana.

Every member of our subcommittee has expressed himself or herself as actively in support of this project. And why should that not be? This project has been duly authorized by heavy vote in both houses, and it has the necessary qualifications; yet, it has not been accorded the chance to move ahead to actual planning, followed by construction.

Six States have been involved in the beginning in this matter—six States in which the highest rates in the Nation prevail.

I was interested to hear the distinguished Senator from Vermont say yesterday that as soon as his fine State was able to receive some of the hydroelectric power from the St. Lawrence development, an immediate improvement in the rate structure for electric power appeared. I believe that would be the situation throughout New England if this great project could move ahead to completion.

My opinion is that we must stand together in a matter of this nature. My own State has no chance to have hydroelectric power to any great degree. However, in States which have water that can supply the power and which have the natural fall and great supplies of water that otherwise go to the sea, there is no reason in the world why they should not have equal opportunity with the other States of the Nation to profit from the existence of that abundant water, plus the fall in the earth's surface there, to bring about better conditions for all their people in connection with the purchase and use of electric power.

I shall continue to support this project. I do not know exactly what is behind the opposition, because we have not run into anything such as this anywhere else.

I assure my distinguished friends from Maine that I appreciate their anxiety. They have been very tolerant in approving today the final windup of this bill, and I believe it was wise; because not only the Atomic Energy Commission but also the TVA and other activities in both the Reclamation Bureau and the Corps of Engineers field depend upon the completion of this legislation.

I hope that the House will have a more favorable attitude next year. So far as I am concerned, I am certain that the favorable attitude prevailing in our committee, the Appropriations Committee, will continue, and that we will be solidly behind this project.

In the meantime, we may be able to find out what is wrong and what is bringing about this opposition, and we may be able to find a way to cure it. I pledge my best efforts to that end.

Mr. MUSKIE. I thank the distinguished Senator from Florida. I must say that in our disappointment and anxiety about next year, it is good to have the reassurance of such good friends as have spoken with respect to this project this afternoon.

Mr. ELLENDER. Mr. President, I move that the Senate recede from its amendment to the House amendment to Senate amendment No. 2, and agree to the House amendment to Senate amendment No. 2.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. ELLENDER. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a summary table showing the final action on the public works appropriation bill.

There being no objection, the summary table was ordered to be printed in the RECORD, as follows:

TABLE 1.—*Summary table (Oct. 12, 1967)*

Item	Appropriations, 1967	Budget estimate, 1968	House allowance	Senate allowance	Conference allowance
TITLE I—DEPARTMENT OF DEFENSE—CIVIL					
DEPARTMENT OF THE ARMY					
Cemeterial expenses: Salaries and expenses	[1] $17,148,000	$24,637,000	$21,200,000	$21,200,000	$21,200,000
Corps of Engineers—Civil:					
General investigations	32,450,000	39,745,000	33,745,000	36,246,000	34,445,000
Construction, general	967,460,000	[2] 972,992,000	935,074,000	1,010,823,000	967,599,000
Operation and maintenance, general	179,000,000	197,634,000	189,000,000	190,000,000	190,000,000
Flood control and coastal emergencies	7,000,000				
Flood control, Mississippi River and tributaries	87,135,000	77,400,000	83,400,000	91,480,000	87,135,000
General expenses	[3] 18,014,000	19,914,000	18,950,000	18,950,000	18,950,000
Total, rivers and harbors and flood control	1,291,059,000	1,307,685,000	1,260,169,000	1,347,499,000	1,298,129,000
The Panama Canal:					
Canal Zone Government:					
Operating expenses	[4] 34,746,000	36,191,000	36,000,000	36,000,000	36,000,000
Capital outlay	2,000,000	5,024,000	4,500,000	4,500,000	4,500,000
Panama Canal Company: *Limitation on general administrative expenses*	[5] *(12,278,000)*	*(13,267,000)*	*(13,000,000)*	*(13,000,000)*	*(13,000,000)*
Total, the Panama Canal	36,746,000	41,215,000	40,500,000	40,500,000	40,500,000
Total, title I	1,344,953,000	1,373,537,000	1,321,869,000	1,409,199,000	1,359,829,000

See footnotes at end of table.

TABLE 1.—*Summary table (Oct. 12, 1967)*—Continued

Item	Appropriations, 1967	Budget estimate, 1968	House allowance	Senate allowance	Conference allowance
TITLE II—DEPARTMENT OF THE INTERIOR					
Bureau of Reclamation:					
General investigations	$15,075,000	$16,523,000	$16,000,000	$21,555,000	$16,523,000
Construction and rehabilitation	[6] 192,825,000	[7] 181,868,000	172,700,000	185,005,000	181,868,000
Operation and maintenance	[8] 42,350,000	49,540,000	48,300,000	48,300,000	48,300,000
Loan program	12,995,000	15,000,000	15,000,000	15,400,000	15,000,000
Upper Colorado River Basin fund	50,198,000	[9] 41,260,000	41,000,000	41,000,000	41,000,000
Emergency fund	1,000,000				
General administrative expenses	[10] 11,567,000	11,356,000	11,356,000	11,356,000	11,356,000
Total, Bureau of Reclamation	326,010,000	315,547,000	304,356,000	322,616,000	314,047,000
Bonneville Power Administration:					
Construction	109,000,000	120,006,000	110,500,000	110,500,000	110,500,000
Operation and maintenance	17,010,000	19,000,000	18,500,000	18,500,000	18,500,000
Total, Bonneville Power Administration	126,010,000	139,006,000	129,000,000	129,000,000	129,000,000
Southeastern Power Administration: Operation and maintenance	1,000,000	1,000,000	850,000	850,000	850,000
Southwestern Power Administration:					
Construction	3,950,000	[11] 5,505,000	5,035,000	5,015,000	5,015,000
Operation and maintenance	2,115,000	2,240,000	2,240,000	2,240,000	2,240,000
Continuing fund (*indefinite appropriation of receipts*)	(3,700,000)	(3,200,000)	(3,200,000)	(3,200,000)	(3,200,000)
Total, Southwestern Power Administration	6,065,000	7,745,000	7,275,000	7,255,000	7,255,000
Underground electric power transmission research		2,000,000			
Federal Water Pollution Control Administration:					
Water supply and water pollution control [12]	75,439,000	101,114,000	90,800,000	94,935,000	92,800,000
Buildings and facilities	[13] 4,624,000	1,920,000			
Construction grants for waste treatment works [12]	153,000,000	203,000,000	203,000,000	225,000,000	203,000,000
Total, Federal water pollution control	233,063,000	306,034,000	293,800,000	319,935,000	295,800,000
Total, definite appropriations	692,148,000	771,332,000	735,281,000	779,656,000	746,952,000
Total, indefinite appropriations	3,700,000	3,200,000	3,200,000	3,200,000	3,200,000
Total, title II, Department of the Interior	695,848,000	774,532,000	738,481,000	782,856,000	750,152,000
TITLE III—ATOMIC ENERGY COMMISSION					
Operating expenses	1,923,000,000	[14] 2,169,900,000	2,125,000,000	2,142,402,000	2,140,000,000
Plant and capital equipment	276,030,000	[15] 476,200,000	367,733,000	369,633,000	369,133,000
Total, title III, Atomic Energy Commission	[16] 2,199,030,000	[16] 2,646,100,000	2,492,733,000	2,512,035,000	2,509,133,000
TITLE IV—INDEPENDENT OFFICES					
Atlantic-Pacific Interoceanic Canal Study Commission	[17] 4,000,000	7,500,000	6,115,000	6,100,000	6,100,000
Delaware River Basin Commission:					
Salaries and expenses	45,000	45,000	45,000	45,000	45,000
Contribution to the Delaware River Basin Commission	115,000	134,000	134,000	134,000	134,000
Total, Delaware River Basin Commission	160,000	179,000	179,000	179,000	179,000
Interstate Commission on the Potomac River Basin: Contribution to Interstate Commission on the Potomac River Basin	5,000	5,000	5,000	5,000	5,000
Tennessee Valley Authority: Payment to Tennessee Valley Authority fund	63,700,000	62,150,000	60,000,000	62,150,000	61,000,000
Water Resources Council:					
Water resources planning	600,000	1,340,000	1,070,000	1,070,000	1,070,000
Financial assistance to States	1,875,000	2,470,000	2,470,000	2,470,000	2,470,000
Total, Water Resources Council	2,475,000	3,810,000	3,540,000	3,540,000	3,504,000
Total, title IV, Independent Offices	70,340,000	73,644,000	69,839,000	71,974,000	70,824,000
Grand totals:					
Total, definite appropriations	4,306,471,000	4,864,613,000	4,619,722,000	4,772,864,000	4,686,738,000
Total, indefinite appropriations	3,700,000	3,200,000	3,200,000	3,200,000	3,200,000
Grand total, all titles	4,310,171,000	4,867,813,000	4,622,922,000	4,776,064,000	4,689,938,000

[1] Includes $2,050,000 in 2d supplemental 1967, H.R. 9481, 90th Cong., 1st sess.
[2] Includes $20,419,000 in H. Doc. 114, 90th Cong., 1st sess.
[3] Includes $464,000 in 2d supplemental 1967, H.R. 9481, 90th Cong., 1st sess.
[4] Includes $1,342,000 in 2d supplemental 1967, H.R. 9481, 90th Cong., 1st sess.
[5] Includes $278,000 in 2d supplemental 1967, H.R. 9481, 90th Cong., 1st sess.
[6] Includes $450,000 in 2d supplemental 1967, H.R. 9481, 90th Cong., 1st sess.
[7] Includes $1,900,000 in H. Doc. 114, 90th Cong., 1st sess.
[8] Includes $1,350,000 in 2d supplemental 1967, H.R. 9481, 90th Cong., 1st sess.
[9] Includes $1,600,000 in H. Doc. 119, 90th Cong., 1st sess.
[10] Includes $267,000 in 2d supplemental 1967, H.R. 9481, 90th Cong., 1st sess.
[11] Includes $400,000 in H. Doc. 114, 90th Cong., 1st sess.
[12] Reflects transfer of $20,000,000 in 1967 and $10,000,000 in 1968 for activities transferred in the estimate from "Construction grants for waste treatment works" to "Water supply and water pollution control."
[13] In addition, unexpended balances of $1,655,618 reappropriated in 1967 Department of Labor, and Health, Education, and Welfare Appropriation Act.
[14] Includes $40,000,000 submitted in H. Doc. 62 and decrease of $14,900,000 submitted in H. Doc. 80.
[15] Includes $59,800,000 and $68,200,000 submitted in H. Docs. 62 and 111, respectively.
[16] In addition, it is estimated that receipts and reimbursements will be made available from non-Federal sources totaling $66,610,000 and $58,840,000 for fiscal years 1967 and 1968, respectively.
[17] In addition, unobligated balances of $2,691,000 reappropriated in 1967 Public Works Appropriation Act.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKSGIVING RECESS

Mr. MANSFIELD. Mr. President, I have been discussing the possibility of a Thanksgiving recess with the distinguished minority leader. We have come to the conclusion that, in view of the legislation which confronts us at this time, it might be well to announce today that there will be a recess over Thanksgiving. So beginning at the conclusion of business on the Wednesday before Thanksgiving, the 22d, the Senate will not meet through and including the following Sunday. In other words, it will give us Thursday and Friday off. Saturday and Sunday is the usual weekend. Monday the Senate will be back in session again.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. WILLIAMS of Delaware. Does the Senator think we will be off a couple of days at Christmas, also?

Mr. MANSFIELD. That is a difficult question to answer.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah [Mr. Moss] was recognized.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor, so that I may make a unanimous-consent request, which will appear either before or after his remarks?

Mr. MOSS. I yield to the distinguished majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, with reference to H.R. 10595, the leadership has conferred with the manager of the bill and the distinguished senior Senator from New York [Mr. JAVITS].

We ask unanimous consent that immediately after the disposition of S. 633, for which a unanimous-consent agreement has been entered into for a vote at 2:30 on Monday, there be a time limitation of up to 1 hour on each side, 1 hour to be controlled by the distinguished Senator from Wisconsin [Mr. PROXMIRE], and the other hour to be controlled by the distinguished Senator from New York [Mr. JAVITS], and that at the conclusion of that time there be a vote on the bill. I wish to waive rule XII in that respect.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. What is rule XII?

Mr. MANSFIELD. Rule XII provides for the quorum call.

Mr. JAVITS. Mr. President, reserving the right to object, as a matter of accommodation to Senators, should not the unanimous-consent agreement provide that any Senator who wishes to offer an amendment may have 5 minutes or some other time on each side, to indicate that this is not a closed corporation.

Mr. MANSFIELD. I thank the Senator.

Mr. President, in that respect, I include in the request a 10-minute proviso for amendments, the time to be equally divided between the majority leader and the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The unanimous-consent agreement reduced to writing is as follows:

Ordered, That at 2:30 p.m. on Monday, November 13, 1967, the Senate proceed to vote on final passage of the bill (S. 633) to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the United States Information Agency through establishment of a Foreign Service Information Officer Corps. *Provided,* That on Monday, November 13, 1967, the period between 12:30 and 2:30 p.m. shall be equally divided and controlled, respectively, by the Senator from Rhode Island [Mr. PELL] and the Senator from Louisiana [Mr. ELLENDER].

Ordered further, That immediately following the disposition of S. 633 the Senate proceed to the consideration of H.R. 10595, to prohibit certain banks and savings and loan associations from fostering or participating in gambling activities, with debate on the bill limited to 2 hours to be equally divided and controlled by the Senator from Wisconsin [Mr. PROXMIRE] and the Senator from New York [Mr. JAVITS]; *Provided,* That debate on any amendment be limited to 10 minutes to be equally divided and controlled between the majority and minority leaders or their designees.

Mr. JAVITS. Mr. President, would the Senator yield further?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I wish to announce that I shall make my opening statement on the bill tonight.

Mr. MANSFIELD. Mr. President, for the information of the Senate we will be on S. 633 when we come back on Monday next, to be followed by H.R. 10595, to be followed by the military construction bill (H.R. 13606) which was reported this afternoon.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. Are we going to stay in session in order to see what the other body does in connection with the conference report on the District of Columbia?

Mr. MANSFIELD. That is our intention.

I thank the Senator from Utah for yielding.

CAN WE CHECK INFLATION?

Mr. MOSS. Mr. President, the Congress and the President have reached an apparent impasse over the surtax. While there is little the U.S. Senate can do, since the House Ways and Means Committee must move first, I believe that the Senate should continue to discuss vigorously and extensively the case for a 10-percent income tax surcharge, and the alternatives to it, so that the consequences may be clear to the Congress and to the people.

To surtax or not to surtax? Even to ask the question courts unpopularity. Nobody wants to pay more taxes. Cut spending, people insist. Do not ask us for more money even though we are involved in a war which is costing over $2 billion a month, and in which over 500,000 Americans are risking their lives.

Well, this Congress has cut almost $4 billion from the appropriation bills for the fiscal year 1968 passed so far, and we will cut more. The President has put a freeze on some other Federal funds which have already been appropriated.

The national dilemma, as many people may not realize, is that almost 80 percent of our Federal expenditures are in areas where cuts cannot easily be made—defense and national security, interest payments on the debt, payments to veterans, the bill for past wars, and the soaring costs of the war in Vietnam. Only about $20 billion in the budget is subject to cuts, and there are dangers in cutting too deeply in this sector since we could grind to a halt many domestic programs which are basic to our health and welfare.

But even the most drastic reductions in this sector cannot make much more than a good-sized dent in the projected $24 to $28 billion budget deficit for fiscal 1968. So it is not solely a question as to whether the Federal Government needs the additional revenue the 10-percent surcharge would produce. We all know that it does. If we could combine the increased revenue of the charge with the budget cuts which are already being made, we could probably reduce the expected $24 to $28 billion 1968 deficit by $10 to $14 billion.

Despite this improved outlook, the surcharge remains unpopular with both the Congress and the general populace. For one reason, this tax increase is proposed at a time of growing opposition to our involvement in Vietnam, and the cost of that involvement, and of widespread discontent about our big and growing Government and increasing dissatisfaction with specific Federal programs. Moreover, some opponents of the surcharge doubt that the economic consequences of its rejection will be serious.

Opinions on the Nation's involvement in Vietnam, on the proper size and role of Government, and on specific Federal programs are determined largely by moral values and political convictions. There are some 535 different varieties of opinion on both points in the Congress, and several million more throughout the country. If these points were the only ones relevant to deciding whether to support or oppose a surcharge, most of us could defend with great strength the opposition dictated by our moral and political convictions. But they are not.

We cannot omit from consideration the warning we have been given of the consequences of failure to adopt the surcharge. The warning has come not only from President Johnson and his spokesmen. It has come also from an impressive number of business leaders, bankers, and economists outside the Government that the economic consequences of failure to adopt the surtax can be very serious, and can be ignored only at great peril to the economic health of the Nation.

The warning comes from persons who, I am sure, are no happier about the prospect of higher taxes than I am. Many of them have moral values and political convictions which would dictate opposition to the surtax if the proper size and role of the Federal Government, our involvement in Vietnam, and opposition to specific Federal programs were the only factors that need to be considered. Yet these men speak with deep conviction on the need for a surcharge.

They pull no punches in telling us of the consequences of our failure to act promptly. They predict four inevitables:

First. A return to strong inflationary pressures.

Second. Spiraling interest rates and a return to severely tight money.

Third. A worsening of our balance of payments.

Fourth. Distortions in our economy that will endanger the Nation's economy.

BUSINESS OUTLOOK

I feel very strongly that we in the Senate should make certain that we understand what is being said about the economic consequences of failure to adopt the surcharge, and that we have given full weight to all of these consequences. I know of no way to do this except to review and evaluate what we have been told.

First, what of the business outlook? The revised budget estimates presented by the President in his tax message in August showed a deficit of $24 billion during the fiscal year 1968, $15 billion higher than was estimated in January. The message also stated that without tight expenditure control and a tax increase the deficit could exceed $28 billion, not including about $700 million increased interest cost on the Federal debt that such a deficit would involve.

The revised estimates reflect the expectation that Federal expenditures will be higher by about $8 billion and tax receipts lower by about $7 billion than the January estimates showed.

There is general agreement among persons whose job it is to be well informed on current and probable future business conditions that State and local governments will be buying more goods and services; residential construction will be increasing; business spending on new plant and equipment will not decline and might even rise a little; consumer spending will increase significantly; and business firms will continue to rebuild inventories.

These analysts of business conditions say that this all adds up to a greater demand for goods and services than our productive capacity can supply on a sustained basis. Because there is a small margin of excess capacity now, a rate of growth in demand that is slightly above the prospective rate of growth in our capacity would be welcome for a short while. But the expected increase in demand will exceed the tolerance that the economy can accept with safety. The experts remind us that the inevitable consequence of unchecked excessive demand is inflation.

The purpose of the proposed tax program is to siphon off $10 billion to $14 billion of this excess demand, and thereby to bring demand more nearly into balance with our capacity to produce. The surcharge would accomplish about $7½ billion of the reduction.

And now, what of the economic consequences of failure to act promptly on a surcharge?

INFLATION

Of the four inevitables I listed earlier, I am most worried by the threat of inflation. I am very much concerned by the estimates which have been made that if the surcharge is not adopted, the prices consumers pay for goods and services will increase by an average of 4 to 5 percent in the next year, and that if the surcharge is adopted the increase will be about 2½ percent. In other words, it is estimated that the cost of inflation resulting from failure to adopt the surcharge will be 1½ to 2½ percent. And it is estimated that the surcharge will take, on the average, about 1 percent of individual income.

During the 12 months ending in September of this year, the consumer price index rose 2.6 percent despite a mere 0.3-percent increase in food prices and a sluggishness in the economy that restrained increases in the prices of other items. Nonetheless, the nonfood items increased 3.4 percent on the average. With the pace of economic activity beginning to quicken and upward pressure on prices mounting, a significantly larger increase than 2.6 percent seems inevitable in the coming year. Some proponents of the surcharge insist that arguing about whether the increase will be 3.5, 4, or 5 percent is pointless if we concede that a price increase of 3.5 percent is, in fact, a burdensome tax. And they remind us that experience has taught us that inflation is primarily a tax on those with fixed incomes or incomes that change slowly, primarily the poor, the elderly and workers whose wage rates are not adjusted to reflect cost-of-living increases.

In a similar vein, the case is made that arguing about whether a 10 percent tax surcharge will restrain price increases by 1 or 1½ or 2½ percent is pointless. It seems fair to concede that the proposed surcharge will restrain prices by some significant amount, and whatever that amount, it will be an offset of the direct cost of the surcharge. If it is as much as 1 percent, it will offset the entire cost of the surcharge.

I can best illustrate the effects of the surtax as opposed to the effects of inflation by detailing what would happen to four families—each with four members—but having vastly different incomes. I shall call my families the Browns, the Whites, the Greys and the Blacks.

The Brown family, which consists of Mr. Brown, his wife, and two children, has an income of only $2,500 a year. Under the surcharge proposal, Mr. Brown would pay no extra tax. However, the higher price increases which seem inevitable in 1968 without the surcharge would cost Mr. Brown and his family some $82 extra during the year for the things they would buy.

The White family of four have an income of $5,000, and also would pay no surtax. But the cost to them of the extra price increases, without a surcharge to drain off some of the buying power, would be about $147 during the year.

The four members of the Grey family, with an income of $10,000, would pay an additional $111 on top of their regular tax under the surcharge proposal, but the price increases in the things they would buy, should there be no surcharge, would be in the neighborhood of $285. So the surcharge would represent a savings of $174.

And finally, the Blacks, who are a four-member family with an income of $20,000, would pay about $316 under the surcharge, but a rise in the cost of living without the tax would add an extra $540 to their bills, or some $224 more than they would pay in surtaxes.

To put it more succinctly, the surtax would not cost either of the two low income families an extra cent, but inflation would take about 3 percent of their incomes.

In the two higher income families, the Grey family would pay 1 percent of their income in additional taxes under the surcharge proposal, but inflation would take almost 3 percent. The Blacks would pay only 1½ percent of their income in additional taxes, while inflation would take 2½ percent.

So for the Browns, the Whites, the Greys and the Blacks, the surcharge seems to be the cheaper way out—the lesser of two evils.

INTEREST RATES AND MONEY SUPPLY

The second inevitable, the effect on interest rates and money supply, is equally serious. When the economy is operating—as it is now—close to full utilization of its productive resources, increased Government expenditures must, after a point, necessarily be paid for by a slower growth of consumption of goods and services by the private sector of the economy. Another way of saying this is that when the physical limit of increases in goods and services has been reached, the Government cannot increase the share of the goods and services it consumes without reducing the share available to individual consumers. The relevant questions then become: Who will be required to give up part of his share in the growth of our production, and by what means will the Government divert resources from the private sectors? The proposed tax increase is one means of diverting resources to Government use. The only other realistic alternative is to increase Government borrowing.

The immediate consequence of increased Federal borrowing would probably be higher interest rates. This is a simple matter of supply and demand. If the demand for loan funds increases while supply does not, the prices paid—that is, interest rates—will rise. Indeed, the fear that Government will have to finance the deficit by increased borrowing is said by some bond market experts to be a principal reason for the sharp rise in long-term interest rates in September and October despite a relatively easy money policy by the Federal Reserve System.

Increased borrowing by the Federal Government reduces the loanable funds available to State and local governments and to the private sector of the economy. Supporters of the surcharge note that this would happen at a time when an inflationary trend is causing an increase in the demand for credit by these sectors. The combination of higher interest rates and inflation would leave the Federal Reserve Board no choice but to use monetary policy—credit restrictions, in this instance—as our major means of restraining inflation. And they remind us that the experience of 1966 showed us the consequences of this action—steeply higher interest rates and a stringent money supply that hurt most the homebuilder, the homebuyer, financial institutions which normally supply funds for

home construction, and the small businessman. The credit crisis of 1966 was cruel enough in its impact on these groups. Another crisis now could be far more brutal, for the rise in medium- and long-term interest rates would start from levels equal to or higher than the highs of 1966.

The burden of tight money falls heaviest—and unfairly—on residential construction. I cite the experience of 1966 as evidence. Savings and loan associations, the financial institutions which invest primarily in home mortgages, were unable to compete for funds successfully at the high interest rates that prevailed during much of 1966. As a result, their mortgage lending was curtailed sharply. The effect on home construction was reflected in a 300,000 drop in housing starts from 1965 to 1966 and in a slow rate of increase during the first half of 1967. Tight money in 1966 is said to have cost us nearly a half-million housing starts already. And the higher interest rates charged those whose houses were built or resold in 1966 will be a burden on these persons for the duration of their mortgages. It has been estimated that the ultimate cost of their houses will be 20 percent higher than it would have been in the absence of tight money and higher interest.

WORSENING OF OUR BALANCE OF PAYMENTS

Third, it is clear that failure to adopt the tax surcharge will lead to a worsening of our balance-of-payments position. The adverse effect on balance of payments is a natural consequence of increased inflationary pressures. Excessive demand for goods and services drives up both costs and prices. The excessive growth of domestic markets and the higher prices attract imports, while, at the same time, rising costs make our exports less attractive to foreign buyers. Supporters of the tax surcharge warn that our trade balance would become less favorable, and the confidence of the world's financial community in the dollar could only be impaired.

DISTORTIONS IN OUR ECONOMY

And, finally, we come to the fourth inevitable. When supporters of the tax surcharge speak of distortions in our economy that would occur as a consequence of failure to adopt the surcharge, they are talking primarily of the long-term consequences of inflation, high interest rates, credit shortages, and an impaired balance-of-payments position. Said another way, they contend that financing the Government's increased needs by taxation rather than borrowing is more likely to keep the demand for goods and services growing at the approximate rate of growth in our capacity to produce goods and services. Consequently, they say, financing by taxation is more likely to help us avoid swings in our rate of economic growth that have, too often in the past, resulted in long periods of underutilization of our capacity to produce. And they remind us that we are now in our 81st consecutive month of sustained economic growth, with a great deal of the credit for this record owed to fiscal policy decisions.

I would also remind my colleagues when we cut Federal income taxes some $13.5 billion in 1964, and Federal excise taxes by about $3.5 billion in 1965, it was forecast that the cuts would spur our economy—and in both instances the forecasts were borne out.

Mr. President, there is nothing that generates more heat and passion than a recommendation for a tax increase. Nor is there anything more tricky than attempting to forecast economic trends with firmness, or to analyze in advance the full effect of measures recommended to slow down or to step up economic growth. I am not trying to do either here today.

But I am impressed by the arguments in favor of a surcharge as a way of cutting the surge of demand for goods and services beyond our ability to pay. And I do believe that we are on the edge of such a surge. Without restraint, it could work a severe hardship on our lower income families, our families with fixed income, our elderly on pensions, and it could dash the hopes and plans of millions of other Americans. Inflation is our "cruelest tax."

I hope the U.S. Senate will not duck a discussion of this great public policy issue.

Is our choice between taxation or inflation? It well may be so.

Can we avoid high interest and scarce credit?

Can we balance foreign expenditures and income?

Can we continue our economic growth at a healthy, steady rate?

Will the "medicine" of a surtax effect a cure of "inflationary illness"?

We should not adjourn the first session of the 90th Congress without looking far more carefully into these questions than we have done so far.

PROHIBITION ON USE OF FINANCIAL INSTITUTIONS AS LOTTERY AGENCIES

Mr. JAVITS. Mr. President, I rise to speak in opposition to H.R. 10595, a House-passed bill which would prohibit banks from selling State lottery tickets.

It is well known, and the report on the bill is very frank about it, that the bill is aimed particularly at such State financing plans as, one, the State of New Hampshire, represented in this body by Senator COTTON and Senator MCINTYRE, and the State of New York.

I take considerable satisfaction in the fact that every member of the minority on the Committee on Banking and Currency signed the minority views opposing this bill. Well they might, for the bill represents an effort by the Congress to restrict the States in determining how they shall finance their activities. In this case the financing relates to education. In that way it very definitely strikes a blow at the Federal system.

The bill also seeks to legislate morality in a way which has nothing whatever to do with the Constitution or laws of the country or the country's ethical standards or anything which is the Federal Government's concern.

It is very much the fact that a particular Member of the other body feels very keenly about this subject, and the other body has gone along with him. The question is whether this body will.

This is not a matter of lack of respect for the Member of the other body, whom I do respect, but who represents a specialized point of view, which should not become the law, and cannot without the consent of the Senate.

There is nothing here which jeopardizes banks or banking operations or which has anything to do with their reputation or their credit worthiness. This is a State activity, carried on by the State of New York, after the matter had been dealt with by its own citizens under a constitutional amendment. This matter was approved, and the State legislature took action implementing the lottery, and the State is carrying out State law. Certainly there is nothing that would jeopardize the standing or character of any bank. That standing or character is certainly no higher than the State itself.

In addition, the reach of this bill is extremely broad. It takes in not only national banks but any bank whose deposits are insured by the Federal Deposit Insurance Corporation, as well as savings and loan associations coming under the jurisdiction of the Federal Home Loan Bank.

In my judgment, and obviously in the judgment of the whole minority, it is a most unwise policy. The objective of the bill is to prevent New York's federally chartered or insured banks and savings and loan associations from serving as agents for the sale of lottery tickets under the State's lottery plan.

The State lottery was established in New York after long public debate. Its purpose is to raise money for education.

In 1965 and again in 1966, the New York State Legislature passed a resolution proposing a constitutional amendment authorizing the establishment of a lottery for this purpose. In November 1966, the voters of the State, by nearly 900,000 plurality, approved this amendment. Acting in response to this overwhelming public endorsement, the New York State legislature enacted legislation implementing the lottery, and the Governor approved it. This legislation had broad bipartisan support.

I am opposed to this pending bill, and I testified against it when it was before the Banking and Currency Committee. It should be noted, as a matter of interest, that I opposed the lottery when it was on the ballot in 1966. I mention this because I wish to emphasize that the merits and demerits of State lotteries are not here at issue. At least as to the State of New York, that particular question has been resolved by the voters and legislature of the State, and a lottery has become law. New York violated no Federal law in establishing a State lottery. Under these circumstances, I do not believe that Congress should intervene in the public policy of a State, established by the people and the legislature, after careful consideration, and which is not a matter of jurisdiction under the Federal Constitution.

Mr. President, it will be remembered that I am one of the most ardent advocates of civil rights legislation and other provisions of law coming under amendments to the Federal Constitution. But, Mr. President, where the power of the Nation or the power of Congress is not in question, then the whole essence of the federal system requires that we allow the States to act in accordance with the best judgment of their governing authorities and the best judgment of their people. In this case, we have involved not only the legislature, but the people of the State themselves.

I do not challenge the power of Congress to regulate the activities of federally chartered and insured financial institutions; I do question earnestly the propriety of congressional intervention in this particular case, where there is no congressional duty or responsibility involved.

In the Banking and Currency Committee, certain amendments were made, which would allow the banks to continue to service other agents for the sale of lottery tickets in New York and to serve as agents for the control and accounting of tickets on a regional basis—in short, to do everything except actually sell the tickets themselves. I believe that these amendments are proper and I favor their adoption. However, my basic objection to this bill remains.

I find it very difficult to understand how the banks were permitted to be party to some of the activities under the State lottery, but not to all. I believe that any congressional interference with this legal activity on the part of one of the sovereign States would be an unjustified interference by the Federal Government in the affairs of a State which is not within the cognizance of the Constitution, nor otherwise the responsibility of Congress.

It seems to me that with regard to this act, Congress should be solely concerned with deciding whether selling or dealing in State lottery tickets impairs the financial integrity of the banks. No such evidence has been presented; nor has any evidence been offered to prove that a bank's dealing in lottery tickets endangers its deposits. Instead, this bill represents an attempt to obstruct, to overthrow, the sovereign will of the people of a particular State, to impress upon that State a contrary—a congressional—standard of values in a matter which, I repeat, is not within the cognizance of the Constitution nor the responsibility of Congress, but is clearly the responsibility of the State. It would be different if State lotteries violated Federal law; they do not. It would be different if banks were "Federal instrumentalities"; they are not. We do not have the case of a Federal institution utilized to frustrate Federal policy. Banks are private, profit-making bodies—subject to Federal regulation, to be sure, but private, nonetheless. The banks—and not all the banks are participating—have voluntarily offered these services to the State of New York. A preponderant share of the tickets are sold by them. If financial institutions are prohibited from performing this function, the State would have to turn to other outlets, like drug and liquor stores, which offer the feature of accessibility. This is a step the State of New York does not wish to take and should not be compelled to take by virtue of this legislation.

The only purpose this bill would achieve would be to reduce the amplitude of operation of the lottery, and it would add tremendous administrative costs for the State.

This bill is not a measure to preserve the integrity and soundness of our banking system. In offering this service to the State, the banks are not speculating. A bank's participation in the lottery in no way increases the risk which the Federal Deposit Insurance Corporation assumes when it protects depositors against loss. The Federal Deposit Insurance Corporation, on May 31, 1967, and the Board of Governors of the Federal Reserve System, on June 1, 1967, advised the Committee on Banking and Currency of the House of Representatives that the sale and distribution of State lottery tickets was not an unsafe or unsound banking practice. The Comptroller of the Currency has also pointed out that no Federal statute prohibits a national bank from acting as agent for the State in the sale and distribution of lottery tickets.

Mr. President, in conclusion, I wish to quote from the testimony of Joseph H. Murphy, New York State commissioner of taxation and finance, before the Senate Subcommittee on Financial Institutions:

> H.R. 10595 will simply make it difficult for the State of New York to provide funds for education through a means overwhelmingly approved by its voters. This raises a very basic and fundamental issue of Federal-State relations within our Federal system of government.
>
> What is important is that the people of the State of New York and their State government have made their decision as to how additional funds for education shall be raised, and under our Federal system, every state has the right to make this decision for itself . . . What this Bill proposes has nothing to do with the integrity or soundness of the banking system. It is simply an indirect way of curtailing a popularly-mandated state revenue source.

Mr. President, may I also add, in that connection, that if we begin to use the banking system for the purpose of enforcing some code of morality which is the invention of Congress, against the States, it seems to me that we are certainly departing very far indeed from the purposes of our system, and allowing it to be the agent of all sorts of distortion, as well as to be subject to very serious distortion itself.

For all these reasons, Mr. President, as a Senator from my State, I deem it essential to oppose this bill. We shall conclude this debate on Monday, and have a rollcall vote upon the bill. I hope very much that, though there are lotteries in only two States, other Senators will not be willing to foreclose such an important revenue source, which is also available to their States, or such a high caliber way of handling a State lottery, rather than forcing it into channels which are less satisfactory in terms of administration, of course, as well as in terms of the equality and integrity with which the matter is handled in each State.

For those reasons, reasons which I consider as well to be grave blows to the federal system, grounded in no way in the Constitution or in the responsibility of Members of Congress, I hope the bill will be rejected. I shall make whatever motion is required to enable Senators to vote upon that issue next Monday.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, I recommend wholeheartedly the enactment of H.R. 10595, a bill which prohibits federally insured financial institutions from selling lottery tickets. The bill would apply to all federally insured banks and savings and loan associations. In addition to selling lottery and dealing in bets, the bill also prohibits such institutions from advertising or publicizing lotteries or permitting their premises to be used for the sale or promotion of lottery tickets.

Mr. President, the Federal Government has had a longstanding policy to deny lotteries the use of Federal facilities, and the prohibition on the sale of lottery tickets by federally insured financial institutions is merely an extension of this longstanding policy. This bill does not represent a radical or new departure from existing Federal law. For example, under the terms of 18 U.S.C. 1302, it is a Federal crime to mail lottery tickets or information or advertisements about lotteries. This prohibition extends even to intrastate mailings. Under section 1302, it is also illegal to send through the mail "any newspaper, circular, pamphlet, or publication of any kind containing any advertisement for any lottery, gift enterprise or scheme of any kind offering prizes, depending in whole or in part upon lot or chance, or containing any list of the prizes drawn or awarded by means of any such lottery, gift enterprise or scheme, whether said list contains any part or all of such prize." Any person guilty of violating section 1302 shall be liable for a fine of up to $1,000 or a prison term of up to 2 years or both. Under 18 U.S.C. 1304, it is illegal for any federally licensed radio station to broadcast or advertise information concerning any lottery. Similar penalties are provided for violation of this prohibition.

Thus, newspapers, although not federally chartered or supervised as are financial institutions, are prohibited from mailing publications which advertise or promote lotteries or which contain lists of lottery winners. These provisions have recently been upheld by the Supreme Court of the United States in the Febrizio case—December 12, 1966.

Mr. President, it has been said that this bill is an invasion of States' rights, that it challenges the constitutional authority of a State to enact a lottery. Nothing could be further from the truth. The bill does not prohibit any State from operating a lottery if it so chooses. Although most members of the committee would regard State lotteries as a dubious means of raising funds, I am sure everyone agrees a State should have the freedom to establish a lottery if it is desired by the people of the State. At the present time two States, New York and New Hampshire, have State-sponsored lotteries, and a number of other States are

considering lotteries as a means of raising revenue.

Speaking for myself, I am deeply opposed to lotteries in any form. I think it is an inefficient and immoral method for raising revenue and I would certainly oppose such legislation if it were to be proposed in my State of Wisconsin. However, a mere moral objection to lotteries is not a sufficient reason for recommending the enactment of this legislation. I recognize that the question of gambling is largely a moral question to be decided by the individual 50 States. It is not for the Congress to pass a final judgment as to whether lotteries are good or bad. However, I do believe Congress has a legitimate and proper concern over the use of federally insured financial institutions as agents of State-sponsored lotteries. There are legitimate questions as to whether the sale of lottery tickets by federally insured financial institutions are a proper function to be carried out by such institutions. Commercial banks and savings and loan associations play a unique and vital role in our economy. More than any other business, they are subject to comprehensive and periodic supervision and regulation. The maintenance of a sound system of financial institutions is extremely vital to our economic health. Banks and savings and loans associations must not only be free from misdealing, but they must be free from any appearance of misdealing. Like Caesar's wife, they must be above suspicion.

Because of the unique and important role played by financial institutions, Congress has traditionally exercised close control over the activities in which such institutions can engage.

The question then arises, is the sale of lottery tickets the proper function for federally insured financial institutions to perform? Because many of our citizens consider gambling to be fundamentally wrong and immoral there is a serious question as to whether it is proper for banks and Federal savings and loan associations to be actively and openly selling lottery tickets or otherwise dealing in bets. For example, one of the most respected banks in New York State, the Franklin National Bank with assets of $2 billion and 66 branches, issued the following statement concerning the New York lottery:

> It is the inescapable responsibility of a bank to always be both a symbol and example of stability and security in the community. A lottery undermines that basic responsibility. Newspapers, radio, television, and direct mail media are prohibited from accepting advertisement promoting the lottery. If media cannot legally advertise the lottery, banks should not sell lottery tickets. Congressman Wright Patman (Democrat, of Texas), chairman of the U.S. House Banking and Currency Committee has proposed legislation prohibiting national banks from selling lottery tickets. We support this legislation.

In addition, the Wall Street Journal, which is not known for its support of governmental interference with free enterprise, editorialized on June 13, as follows:

> Despite its espousal by the State, gambling remains a tainted affair. Historically, it has never been far from scandal, a situation which State management may or may not change in the long run. Even without fraud and cheating, moreover, it remains suspect. Those who do not question its morality still must recognize it has considerable aura of fiscal irresponsibility.
>
> A few banks, notably Franklin National Bank on Long Island, have refused to sell the tickets. They seem to reason that if banks cannot offer integrity, they have little else to sell. So they soundly seek to avoid any activity which carries even a sniff of taint.
>
> If the rest of New York's banks cannot figure this out for themselves, we suppose it's up to Wright Patman to tell them.

I believe the views expressed by the Wall Street Journal and Franklin National Bank are shared by many citizens. Regardless of whether we consider lotteries good or bad, the fact still remains that many people do consider them bad. Since we do have a legitimate consideration with the soundness and good reputation of federally insured financial institutions, there is a legitimate question as to whether Federal deposit insurance should be used to support financial institutions which are engaged in activities in which a substantial segment of public opinion considers morally objectionable.

It is true that the bank supervisory agencies did not consider the sale of lottery tickets by the New York State lottery as a threat to the safety of federally insured banks. However, such a judgment can only be conditioned upon the present set of circumstances, including the existing management of the lottery. It is a historical fact that most State lotteries have sooner or later resulted in graft and corruption. In fact, New York State itself once had a State-sponsored lottery which it abolished in 1833. In abolishing the lottery the New York State Legislature concluded:

> The foundation of the lottery system is so radically vicious . . . that under no system that can be devised will it be possible for this Legislature to adopt it as an efficacious source of revenue, and at the same time divest it of all the evils of which it has hitherto proved so baneful a cause.

There have been 1,300 legal lotteries in the United States in the past 221 years. Most of them have ended in corruption and scandal, and all have failed. Do we want federally insured financial institutions to become associated with this record of financial disaster? What would be the attitude of the bank supervisory agency if organized crime were to infiltrate the New York lottery, as they have in many other cases? What Federal official should have the burden of determining whether or not a State-operated lottery is corrupt or not corrupt? Should the Comptroller of the Currency, in protecting the reputation of national banks, be required to make a determination that mobsters have taken over the New York lottery?

Mr. President, I believe it is unfair and totally impractical to require any Federal official to make such a determination. The only logical solution is to prohibit federally insured financial institutions from selling lottery tickets in the first place. This is the only way we can be sure that a major scandal, which have been the history of lotteries over the past 200 years, will not drag down with it the stability and reputation of federally insured banks and savings and loan associations.

The opponents of this legislation make much of the fact that the bank supervisory agencies are unable to conclude at this point that the sale of lottery tickets represents an unsound or unsafe practice. But this is not the point. The key point is not whether banks are presently engaged in an unsafe practice, but whether there is a reasonable chance that such unsafe practice may occur, given the sordid history of lotteries.

The fact that gambling may be an improper activity seems to be shared by a number of New York banks. Although there are approximately 3,100 banking outlets, only 2,500 sell lottery tickets. Since the New York State banks are under the supervision of the State banking commission, and since the State of New York has officially requested the banks to sell lottery tickets, and since New York State banks are subject to periodic examination, it is reasonable to conclude that the request of New York State would bear considerable weight with the banks.

There is also a competitive question involved. Many banks in New York no doubt feel compelled to participate in the sale of lottery tickets, if for no other reason than to keep up with its competition. If one bank sells lottery tickets and another bank does not, it is conceivable that a bank selling lottery tickets could divert regular banking customers from the nonlottery bank. I believe that if the New York banks were given a completely free choice in the matter, they would choose not to participate in selling lottery tickets. Certainly the committee has only received a handful of letters from New York banks opposing this legislation.

Opponents of this legislation make the point that financial institutions are desirable outlets for the sale of lottery tickets. During the House debate on the bill the problem was presented in terms of either the banks sell the tickets or they will be sold in pubs and saloons. This is a complete false dichotomy. The New York law establishing the lottery authorizes lottery tickets to be sold in financial institutions and in telegraph corporations, hotels and motels, and in State and local governmental offices. Thus, New York State has an abundance of potential nonbanking outlets for the sale of tickets.

By prohibiting banks from selling tickets, we are not thereby forcing them to be sold in taverns or dives. There are many other alternative outlets.

There is also a legitimate question as to whether the promotion of thrift and gambling are compatible functions to be carried out simultaneously. It is inconsistent, in fact it is ridiculous, for a financial institution to have a thrift window side by side with a gambling window. This makes it extremely easy for a wage earner depositing his hard-earned money in a thrift account, or a social security recipient cashing her check, or a welfare recipient cashing the welfare check, to peel off a $5 or $10 bill for a lottery ticket. If banks can sell lottery tickets, why not also have them set up roulette tables and

slot machines? Why not have blackjack dealers in the lobby? Why not have dice games and other assorted games of chance? The opponents of this bill seem to feel that a federally insured bank should have absolute freedom to engage in gambling activities. However, if the Federal Government does not prohibit federally insured institutions from engaging in activities incompatible with their basic function, it is difficult to see how such insurance can be properly extended on a safe-and-sound basis.

Mr. President, another reason for enacting this legislation is to thwart the drive for similar lotteries in the 48 States which do not have lottery legislation. If lotteries can gain greater acceptance by cloaking their operations in the responsibility of federally insured financial institutions, other States might be tempted to enact similar legislation.

It has been said that this bill is aimed only at New York State; however, once again this is not the case. A vote for this bill is a vote to slow up the spread of lotteries to other States. A vote against this bill is an open invitation for other States to enact similar legislation.

In addition to State lottery legislation, a drive for a national lottery has already begun. An office has been established in Washington, D.C., to raise money for the enactment of a national lottery. Funds are solicited over the phone in boilerroom type operations. As an added inducement, the fundraisers are permitted to keep 30 percent of the take.

The opponents of this legislation also argue that it could set a dangerous precedent with respect to existing Government-insured loan programs. The opponents argue that the vehicle of loan insurance might be used to exact similar requirements in some of the existing Federal loan guarantee programs. Once again, this criticism misses the point. There is a fundamental distinction between Federal deposit insurance which is basically insuring the soundness and integrity of a financial institution and Federal loan insurance which insures the credit rating of an individual loan applicant. Because federally insured financial institutions are vested with a public purpose and hold the public's money, it is entirely proper for the Federal Government to closely regulate their activities. No such public purpose is present in the case of an individual homeowner whose loan is guaranteed by the Federal Housing Administration. Thus, the opponents of the bill have raised a red herring, which is totally inapplicable to the basic issues involved.

Perhaps in a final desperate effort to discredit the bill, the opponents point to an alleged inconsistency in the legislation. Since the bill would permit banks to engage in recordkeeping and custodial functions but not in the sale of lottery tickets to the public, the opponents have argued the committee bill is inconsistent. This argument is particularly ill-becoming since the ranking Republican member of the committee offered an amendment which was accepted by the committee which would permit federally insured institutions to engage in the wholesale distribution of lottery tickets to retail outlets. The opponents equate the sale of lottery tickets with dope. They feel it is therefore inconsistent to permit a bank to act as a "supplier" but not as a "pusher." Since it was Senator BENNETT himself who introduced the "supplier" amendment, his criticisms seem inconsistent. However, if the opponents wish to press the argument of inconsistency, I would be happy to cosponsor an amendment which would delete the Bennett "supplier" amendment.

As a practical matter, I believe the distinction between the open sale of lottery tickets to the public, and the performance of recordkeeping, custodial and related functions is reasonable and proper. The main objective of the legislation is to protect the reputation of federally insured banks.

As long as a bank is not actively engaged in the open sale or promotion of the lottery, it is not closely identified with the lottery in the eyes of the public. It is a matter of degree and I supported the Bennett amendment in committee in good faith because I felt there was a reasonable distinction between these two types of activities.

Mr. President, I certainly hope the Senate can approve this legislation. It passed the House of Representatives by the overwhelming vote of 271 to 111. It is not a bill to abolish the New York or New Hampshire lottery; it is not a bill to cast final moral judgments on the wisdom of lotteries; it is not a bill to castigate any State official; it is simply a bill to preserve the sound reputation and image of federally insured banks and savings and loan associations and to insure that they engage in functions compatible with Federal deposit insurance.

ORDER FOR ADJOURNMENT UNTIL MONDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock meridian Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO SIGN BILLS AND RECEIVE MESSAGES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate following today's session until Monday next, the Vice President, or, in his absence, the President pro tempore or the Acting President pro tempore, be authorized to sign duly enrolled bills; and that the Secretary of the Senate be authorized to receive messages from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR RANDOLPH ON WEDNESDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of morning business on Wednesday next, the distinguished Senator from West Virginia [Mr. RANDOLPH] be recognized for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Thereupon (at 5 o'clock and 50 minutes p.m.) the Senate took a recess subject to the call of the Chair.

The Senate reconvened at 5:52 p.m., when called to order by the Presiding Officer (Mr. BAYH in the chair).

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8569) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1968, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 8, 11, 51, 52, and 53 to the bill and concurred therein.

DISTRICT OF COLUMBIA APPROPRIATIONS BILL, 1968—CONFERENCE REPORT

Mr. BYRD of West Virginia. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8569) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1968, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The assistant legislative clerk read the report.

(For conference report, see House proceedings of today.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a summary of the bill be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

DISTRICT OF COLUMBIA

SUMMARY OF APPROPRIATION BILL (H.R. 8569)

Item	Appropriations, 1967	Budget estimates, 1968	House bill, 1968	Senate bill, 1968	Conference action
Loans to District of Columbia for capital outlay (general fund):					
For public works	$26,546,000	$67,500,000	$31,800,000	$57,000,000	$57,000,000
For higher education		5,900,000		5,900,000	5,900,000
For rail rapid transit	4,527,500				
Loans to District of Columbia for capital outlay (highway fund)	12,000,000	14,300,000	14,300,000	14,300,000	14,300,000
Loans to District of Columbia for capital outlay (water fund)	500,000	20,000,000	2,000,000	2,000,000	2,000,000
Total, loan authorization	43,573,500	[1] 89,700,000	48,100,000	79,200,000	79,200,000
FEDERAL PAYMENT					
[Out of the general revenues of the Federal Treasury]					
Federal payment to the District of Columbia (general fund)	$58,000,000	$70,000,000	$56,000,000	$68,000,000	$63,979,200
Federal payment to the District of Columbia (water fund)	2,146,000	2,205,000	2,205,000	2,205,000	2,205,000
Federal payment to the District of Columbia (sanitary sewage works fund)	1,248,000	1,294,000	1,294,000	1,294,000	1,294,000
Total, Federal payment	61,394,000	[2] 73,499,000	59,499,000	71,499,000	67,478,200
DISTRICT OF COLUMBIA FUNDS					
OPERATING EXPENSES					
General operating expenses:					
Executive Office	$615,330	$788,800	$655,200	$720,200	$720,200
Department of General Administration	10,510,990	13,199,589	11,873,700	12,287,700	12,212,700
Regulatory and miscellaneous agencies	3,325,865	4,773,300	4,337,700	4,427,300	4,427,300
Department of Occupations and Professions	538,800	543,800	543,800	543,800	543,800
Public Library	4,455,180	4,774,900	4,590,900	4,615,600	4,615,600
Department of Veterans' Affairs	118,000	120,900	120,900	120,900	120,900
Department of Buildings and Grounds	3,351,935	3,486,311	3,436,900	3,465,300	3,465,300
Office of the Surveyor	297,400	330,400	325,900	328,900	328,900
Total, general operating expenses	23,213,500	28,018,000	25,885,000	26,509,700	26,434,700
Public safety:					
Office of Corporation Counsel	1,392,600	1,533,900	1,440,000	1,459,500	1,459,500
Metropolitan Police	44,536,000	45,050,600	45,050,600	44,870,900	44,870,900
Fire Department	19,706,900	20,464,800	20,464,800	20,431,700	20,431,700
Office of Civil Defense	152,800	175,500	155,100	165,700	155,100
Courts	9,726,200	10,935,500	9,847,800	10,451,100	10,442,200
Department of Corrections	10,758,300	10,794,800	10,794,800	10,793,300	10,793,300
Department of Licenses and Inspections	3,901,300	4,253,400	4,017,400	4,145,000	4,145,000
National Guard	218,300	224,500	224,500	224,500	224,500
Total, public safety	90,392,400	93,433,000	91,995,000	92,541,700	92,522,200
Education:					
Public Schools	85,914,000	101,599,000	93,730,000	96,081,900	95,931,900
Higher Education		1,400,000		1,400,000	1,400,000
Total, education	85,914,000	102,999,000	93,730,000	97,481,900	97,331,900
Parks and recreation:					
Recreation Department	5,821,900	10,299,000	8,484,000	7,692,400	7,692,400
National Park Service	4,926,800	5,201,000	5,201,000	5,185,100	5,185,100
National Zoological Park	2,003,500	2,247,000	2,221,000	2,243,400	2,243,400
Total, parks and recreation	12,752,200	17,747,000	15,906,000	15,120,900	15,120,900
Health and welfare:					
Department of Vocational Rehabilitation	807,300	859,700	859,700	859,700	859,700
Department of Public Health	57,298,200	66,154,800	64,002,300	65,123,100	65,035,800
Department of Public Welfare	32,416,500	40,600,500	38,577,000	38,800,100	38,775,100
Total, health and welfare	90,522,000	107,615,000	103,439,000	104,782,900	104,670,600
Highways and traffic:					
Department of Highways and Traffic	12,859,100	13,681,800	14,084,700	14,033,400	14,033,400
Department of Motor Vehicles	2,127,000	2,379,400	2,374,500	2,348,100	2,348,100
Motor Vehicle Parking Agency	240,900	245,800	245,800	245,800	245,800
Total, highways and traffic	15,227,000	16,307,000	16,705,000	16,627,300	16,627,300
Sanitary engineering:					
Department of Sanitary Engineering	21,083,000	23,464,100	22,873,100	23,226,600	23,226,600
Washington aqueduct	3,459,500	3,505,900	3,505,900	3,505,900	3,505,900
Total, sanitary engineering	24,542,500	26,970,000	26,379,000	26,732,500	26,732,500
Metropolitan Police, additional municipal services, American Legion convention	233,000				
Metropolitan Police, additional municipal services, Shrine convention		237,700	237,700	237,700	237,700
Personal services, wage-board employees	1,320,000	1,613,000	1,613,000	1,613,000	1,613,000
Settlement of claims and suits	60,700				
Total, operating expenses by funds:					
General fund	316,033,200	365,151,600	345,910,300	351,731,300	351,374,500
Highway fund (regular)	13,766,800	15,039,100	15,291,100	15,215,000	15,215,000
Highway fund (parking account)	1,264,700	915,600	915,600	915,600	915,600
Water fund	8,130,700	8,285,000	8,264,400	8,272,500	8,272,500
Sanitary sewage works fund	4,907,000	5,471,800	5,431,700	5,436,600	5,436,600
Metropolitan area sanitary sewage works fund	74,900	76,600	76,600	76,600	76,600
Total, operating expenses, by funds	344,177,300	394,939,700	375,889,700	381,647,600	381,290,800

See footnotes at end of table.

DISTRICT OF COLUMBIA FUNDS—Continued

SUMMARY OF APPROPRIATION BILL (H.R. 8569)—Continued

[Out of the general revenues of the Federal Treasury]

Item	Appropriations, 1967	Budget estimates, 1968	House bill, 1968	Senate bill, 1968	Conference action
REPAYMENT OF LOANS AND INTEREST					
General fund:					
Construction loan	$1,251,549	$2,428,247	$2,428,247	$2,428,247	$2,428,247
Stadium loan	767,017	800,026	800,026	770,026	770,026
Total, general fund	2,018,566	3,228,273	3,228,273	3,198,273	3,198,273
Highway fund: Construction loan	2,301,363	2,661,896	2,661,896	2,661,896	2,661,896
Water fund: Construction loan	1,302,640	1,398,396	1,398,396	1,398,396	1,398,396
Sanitary sewage works fund: Construction loan	455,031	501,435	501,435	501,435	501,435
Total, repayment of loans and interest	6,077,600	7,790,000	7,790,000	7,760,000	7,760,000
Capital outlay:					
Repayment of Federal obligations	1,350,000	1,246,600	1,246,600	1,246,600	1,246,600
Public building construction:					
Public schools	30,105,100	58,030,500	23,866,100	49,858,600	48,394,600
Higher education		5,900,000		5,900,000	5,250,000
Public Library	347,000	12,131,500	11,950,000	12,131,500	12,131,500
Recreation Department	1,065,900	4,599,400	1,042,300	3,675,800	2,545,800
Metropolitan Police	125,000	2,222,000	2,222,000	2,222,000	2,222,000
Fire Department	960,700	54,000	49,000	49,000	49,000
Licenses and Inspections		193,000			
Public Health	1,203,000	2,284,000	855,000	1,064,000	1,064,000
Corrections	152,000	1,303,700	686,200	686,200	686,200
Public welfare	1,368,800	3,604,800	749,800	1,279,800	874,800
Buildings and Grounds	551,000	1,574,000	1,066,000	1,466,000	1,466,000
Community renewal		100,000			
Total, public building construction	35,878,500	91,996,900	42,486,400	78,332,900	74,683,900
Department of Highways and Traffic	15,455,000	18,501,000	18,251,000	18,251,000	18,251,000
Department of Sanitary Engineering	12,937,000	17,622,000	17,574,000	17,622,000	17,622,000
Washington aqueduct	1,410,000	100,000	100,000	100,000	100,000
National Capital Transportation (rail rapid transit)	4,527,500				
Total, capital outlay by funds:					
General fund	50,372,000	101,875,500	53,067,000	88,961,500	85,312,500
Highway fund	14,859,000	17,933,000	17,683,000	17,683,000	17,683,000
Water fund	2,635,000	3,783,000	3,783,000	3,783,000	3,783,000
Sanitary sewage works fund	3,692,000	5,875,000	5,125,000	5,125,000	5,125,000
Total, capital outlay	71,558,000	129,466,500	79,658,000	115,552,500	111,903,500
RECAPITULATION BY FUNDS					
General fund	368,423,766	470,255,373	402,205,573	443,891,073	439,885,273
Highway fund	30,927,163	35,633,996	35,635,996	35,559,896	35,559,896
Highway fund (parking account)	1,264,700	915,600	915,600	915,600	915,600
Water fund	12,068,340	13,466,396	13,445,796	13,453,896	13,453,896
Sanitary sewage works fund	9,054,031	11,848,235	11,058,135	11,063,035	11,063,035
Metropolitan area sanitary sewage works fund	74,900	76,600	76,600	76,600	76,600
Total, all funds	421,812,900	[3] 532,196,200	463,337,700	504,960,100	500,954,300

[1] Includes $40,100,000 contained in S. Doc. 54.
[2] Includes $10,000,000 contained in S. Doc. 54.
[3] Includes a net increase of $6,139,000 contained in S. Doc. 54.

Mr. BYRD of West Virginia. Mr. President, the total sum agreed to by the conferees is $500,954,300. This sum is $4,005,800 under the Senate recommendation, $37,616,600 over the House bill, and $31,241,900 under the total revised budget estimate.

The Federal payment was fixed at $63,979,200. There was no change in the loan authority of $79,200,000 recommended by the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, it is with gratification that I comment upon the results of the conference report of the other body.

The bill is a good bill, even with the adjustments that were made in conference. The thing that is particularly notable is that while the bulk of the adjustment necessarily came in the capital outlay and the items consisting of the junior high school, the Federal City College, the technical institute, the playgrounds, the swimming pool, and the farm cottages, in the District training school, the fact remains that these items in their respective categories were items of the lowest priority in each instance—not necessarily at this time the lowest, but of the lower order. And, of course, by reason of the achievement of the better items in the budget at this time, it will improve their priority the next go-around.

Obviously, since the appropriations process is a matter of asserting priorities as against a limited amount of money, everything cannot be done at one time.

I concur in the idea that this is a good bill and that the committees did very well.

I might say further that the conference report and its success is further testimony to the very splendid leadership of the chairman of the subcommittee.

Mr. JAVITS. Mr. President, the whole conference report is not as satisfactory as many would wish. There are many things pertaining to education and other matters that I am not very happy about. There were discussions which we had on questions of busing and other matters. The provision with respect to the continuance of the ability of Government employees to get their salaries, at least for a little while, is contained in the bill. I think that is all for the good. The bill is being speeded on its way to the White House for that reason. Many people in Government departments are assured concerning our responsibility. Having sat in the conference personally—I have sat in many, as everybody knows—I was personally surprised at some of the rather hard rock upon which many of these things foundered.

I rise to speak because those who would criticize what was done have a right to feel that I am on their side. I can tell them that with the attitude of resistance to change and the even much more severe cutting than is being done was such on the part of the conferees of the other body—and for very sincere reasons which they hold very dear—that I think the result is something creditable to our chairman.

I am fully cognizant of the difficulties which were faced in many of these items. I leave out matters of ideology and policy, which we can differ on, but as far as the hard money items are concerned, I think the Senator from West Virginia [Mr. BYRD] did all he could to sustain the Senate position which was a more generous position than the House position.

Mr. BYRD of West Virginia. Mr. President, I thank the senior Senator from New York for his remarks. I express my

gratitude also to the Senator from Nebraska [Mr. HRUSKA].

The Senator from New York and the Senator from Nebraska were both present at the conference and contributed in great measure to the sustaining of the Senate position.

I express my thanks to them and to the Senator from Wisconsin [Mr. PROXMIRE], who also participated in the conference and did excellent work.

Again I thank our clerk, Mr. Merrick, and again, as my colleague on the other side of the aisle has said, I think this is a good bill, and I feel that it is worth commenting on the speed with which this bill has been brought to the floor. Since last Thursday, which was the date of the windup of the hearings on the bill, we have been able to mark up the bill in subcommittee and full committee and have Senate action and conference action on the bill.

I also wish to say, Mr. President, that the conferees on the other side of the Capitol were most considerate. It should be said, in fairness to the House conferees, that at the time the bill was marked up by the House subcommittee, the budget was not as clear as it was when our committee gave consideration to the many items therein. The budget was out of balance as it was presented to the House committee, and I feel certain that many of the items that the Senate restored would have been included in the bill in the first place by the House committee had the House been able to work with the revenues which were made available to the Senate committee by virtue of the passage of the revenue bill just within the past 2 weeks. So a great deal of credit should go to the House conferees. They were most considerate and most cooperative and reasonable in their approach to the Senate additions.

It was really a pleasure to work in conference with the House conferees, and certainly a great pleasure to work in conference with the ranking minority member of the committee, the Senator from Nebraska [Mr. HRUSKA], who all along the way has given such fine and able support to the chairman of the subcommittee.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

THE OBSERVANCE OF VETERANS DAY

Mr. THURMOND. Mr. President, this Saturday, November 11, the Nation will pause to honor our veterans who have faithfully served this country in time of need and who are represented today by our servicemen and women in Vietnam and Korea, as well as those in the United States and other countries abroad.

There is no group that deserves more consideration than our veterans, for we would have no country today if it were not for their sacrifices and efforts.

I think all Americans recognize this but are bewildered as to what effort they can make as individuals to demonstrate their support and interest in our veterans and especially those who have served in Vietnam.

There are many ways such expressions can be made. Our businessmen in civic clubs could make an effort to have returned servicemen as their luncheon guests, our wives and mothers could invite servicemen into their homes for dinner after church services, and our young people can aid in mailing packages to the men on the frontline in Vietnam and Korea, and in other distant posts.

I would also like to urge that our citizens, either as individuals or through church and civic groups, make an effort to visit our wounded servicemen who are recuperating in veteran and military hospitals throughout the country. I have had occasion to visit many of our wounded servicemen and other veterans at Walter Reed Hospital, in Washington, and there is no doubt in my mind that the visits these men receive from relative strangers is a great morale booster for them. It is also good for the heart of the one doing the visiting, for it brings about an identity with the greater sacrifice these young men have made in the defense of their country.

Our various veteran organizations are already doing an excellent job in this area, but there is an opportunity for more effort from nonveteran bodies such as church and civic groups.

In the past 2 years Congress has passed two major laws which provide benefits to veterans of service since January 31, 1955. They are the Veterans' Readjustment Benefits Act approved March 3, 1966, and the Veterans' Pension and Readjustment Assistance Act of 1967.

The act approved in 1966 provides a new program of home and farm loans for veterans of active military service after January 31, 1955, and to certain members of the U.S. Armed Forces. Under this law eligible veterans and servicemen may obtain GI loans made by private lenders for homes and farms and, in certain designated areas, direct loans made by VA for homes and farm houses.

The second act passed in 1967 provides additional benefits to the veteran of the Vietnam era which is defined as the period beginning August 5, 1964, and ending on a date to be determined by the President or the Congress. The Vietnam era is classified as a period of wartime providing benefits to eligible veterans similar in most respects to those granted the Korean conflict veterans.

Other worthy bills to help our veterans are before the present Congress and deserve passage. Just today I have joined as a cosponsor of a bill introduced by the Senator from North Dakota [Mr. BURDICK] to give servicemen in Vietnam the equivalent of the free insurance coverage that existed during the Korean war.

But on Veterans Day we honor all our veterans, not only those who are presently serving in our Armed Forces. We also see this day as a special period to remember those who have made the supreme sacrifice. Many a family will journey to some national cemetery this weekend to walk among the graves marked simply with white crosses, for this day has an extra meaning to those left behind.

There are approximately 26 million veterans, ranging from the youngest veteran of Vietnam to the oldest campaigner of the Spanish-American War.

With their families and dependents, veterans make up about half our national population which is rapidly approaching the 200 million mark.

These men and women have helped write the history books for America, and have bolstered our national pride with gallant performances at such places as Concord, Valley Forge, New Orleans, Verdun, Belleau Wood, Guadalcanal, the Bulge, Pork Chop Hill, Heartbreak Ridge, Chu Lai, and Con Thein. In all, since our Nation began, 1,002,000 have made the supreme sacrifice, and the 26 million we salute this weekend remain the living symbol of the life pulse of our democracy.

I am proud to salute all of them and to say to each: "A job well done."

ADJOURNMENT UNTIL MONDAY

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock meridian on Monday next.

The motion was agreed to; and (at 6 o'clock and 3 minutes p.m.) the Senate adjourned until Monday, November 13, 1967, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate November 9, 1967:

IN THE AIR FORCE

Maj. Gen. Richard P. Klocko, FR1327, Regular Air Force, to be assigned to positions of importance and responsibility designated by the President in the grade of lieutenant general, under the provisions of section 8066, title 10 of the United States Code.

POSTMASTERS

The following named persons to be postmasters:

ALABAMA

Geraldine E. DeShields, Forest Home, Ala. in place of R. M. DeShields, deceased.

ARIZONA

Helen A. Staton, Lake Havasu City, Ariz., in place of office established April 1, 1966.

GEORGIA

Luther L. Tankersley, Jr., Evans, Ga., in place of Guy Freeman, Jr., resigned.

KANSAS

Lonita A. Hillman, Hazelton, Kans., in place of J. L. Wainscott, retired.

LOUISIANA

June T. Magee, Keatchie, La., in place of T. E. Adams, transferred.

MASSACHUSETTS

Mary E. Forbes, North Bellingham, Mass., in place of M. T. Baader, retired.

MISSOURI

Clarence M. Craig, Green Castle, Mo., in place of C. O. Riddle, retired.

Donald S. Beeson, Perryville, Mo., in place of H. L. Schlattman, retired.

NEW YORK

William H. Boening, Franklin, N.Y., in place of E. S. Finch, retired.

John F. Sweeney, Glen Cove, N.Y., in place of C. A. Campbell, retired.

NORTH CAROLINA

William R. Todd, Jr., Castle Hayne, N.C., in place of E. S. Mishoe, retired.

NORTH DAKOTA

Warren R. Boots, Emmet, N. Dak., in place of R. A. Hill, resigned.

OHIO

Norbert F. Langhals, Cloverdale, Ohio, in place of J. H. Langhals, retired.

PENNSYLVANIA

Herbert W. Roser, Ardmore, Pa., in place of J. F. Morris, transferred.

Frederick O. Hesse, Fort Washington, Pa., in place of D. J. McHenry, retired.

Floyd F. Frederick, New Enterprise, Pa., in place of D. C. Clapper, retired.

SOUTH CAROLINA

Richard L. Copeland, Anderson, S.C., in place of E. C. McCants, retired.

VIRGINIA

Charles C. Bunting, Highland Springs, Va., in place of L. H. Suddith, Jr., retired.

WASHINGTON

Howard F. Martin, Camas, Wash., in place of N. F. Reeder, deceased.

WISCONSIN

Martin L. Kaster, Cuba City, Wis., in place of B. J. Faherty, retired.

EXTENSIONS OF REMARKS

The Facts About the Latest Effort To Sabotage SBA and the Antipoverty Loan Program

EXTENSION OF REMARKS

OF

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 9, 1967

Mr. EVINS of Tennessee. Mr. Speaker, in view of the current discussion and certain misrepresentations being made in regard to my recommendation that sections 404 and 406 of the Economic Opportunity Amendments of 1967 be deleted and stricken, I want to make certain additional information available for the benefit of my colleagues, the Nation's 5 million small businessmen and the American people.

I want to reiterate the position of the House Small Business Committee—and my position as chairman—that sections 404 and 406 should be stricken because they constitute an assault upon the independence of the Small Business Administration and the effectiveness of the antipoverty small business loan program.

There are those who are attempting to make it appear that the recommendation to delete these provisions is an effort to destroy the antipoverty loan program. Nothing could be further from the truth—nothing could be further afield—nothing could be further removed from the facts and experience.

The deletion of these provisions will continue the operation of these programs of SBA on an orderly, efficient and effective basis rather than create divisive, wasteful duplication between the Small Business Administration, the Office of Economic Opportunity and the Department of Commerce.

A review of the history of the antipovery loan program is in order to put the matter in perspective.

This program was established in the Economic Opportunity Act of 1964, an act which included the provision that the Director of OEO would establish criteria to assure an equitable distribution of the antipoverty programs between urban and rural areas. Authority in the program was divided between SBA and OEO.

To make a long story short, testimony before our Small Business Committee showed that this arrangement was inefficient, created long delays, resulted in an inequitable distribution of loans, and in effect established a monopoly on antipoverty loans in our big cities.

Our committee received reports and testimony in regard to the fact that the establishment of organizations known as small business development centers in our major cities had excluded small town and rural areas.

All antipoverty loans approved by SBA first had to receive the endorsement of these centers.

Efforts by rural communities and rural small businessmen to obtain such loans were repeatedly rejected.

This matter was studied thoroughly in our committee hearings in July 1966.

At that time I asked the then SBA Administrator Boutin this question:

> Under prevailing policies a small businessman cannot get a Title IV (antipoverty) loan unless it is processed through the small business development center?
>
> Mr. BOUTIN. That is correct.

In other words, OEO refused to approve these centers in rural areas, with a few exceptions. The result was that 75 percent of the antipoverty loans were being made in the urban areas and only 25 percent in rural and small town areas—in violation of the letter and the spirit of the OEO Act.

There was testimony before congressional committees by OEO officials indicating they did not consider themselves competent to direct this business loan program and that SBA should assume sole responsibility.

An amendment was introduced to this effect and was adopted in 1966. And, I understand, OEO is not asking for the current proposal to revert to divided authority.

The performance of the program before and after the passage of this amendment is proof that Congress was correct in vesting this authority in SBA.

Before SBA was given sole authority, the program was administered on an inequitable basis and many areas of the Nation were excluded. Since SBA was given authority to administer the program, there has been a more equitable distribution with an estimated 60 percent of the loans made in urban areas and 40 percent in small town and rural areas.

The volume of loans under the program has increased substantially, since SBA was given sole authority to administer the program. During the 22-month period prior to the passage of the amendment vesting the authority in SBA—under the small business development center program—antipoverty loans totaled 2,800 for $29 million.

After SBA was given sole authority, 3,112 loans were made in the 12-month period ending last month for a total of $32 million. In other words, SBA in a year of direct authority was able to achieve substantially better results than were achieved in 22 months with divided authority.

SBA has the knowledge—the know-how—and the expertise to administer the program properly—and is doing so. We should not revert to inefficiency and duplication.

In regard to section 406 there is another danger. Over a period of 2 years there have been repeated efforts to shift SBA and its operations to the big business-oriented Department of Commerce.

This too has been tried before—and its failure is reflected in the fact that Congress created the Small Business Administration to give the small businessman an effective voice and an effective agency to represent his interests in Washington.

Let us not dilute the independence of SBA—let us not return the small business assistance functions to the big business-oriented Department of Commerce.

These are the facts.

Polish Independence Day

EXTENSION OF REMARKS

OF

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 9, 1967

Mr. DERWINSKI. Mr. Speaker, Saturday, November 11, we will pause to pay proper reverence to the American veterans of all wars who have fought to keep our country independent.

At the same time, the people of Poland will be prevented by their Communist dictators from commemorating the anniversary of their independence November 11, 1918, a day on which Polish independence was proclaimed at the close of World War I.

In the period from November 1918, to September 1, 1939, when Poland fell victim to the Nazi invasion, the country underwent a steady building process and had developed into a flourishing democracy.

Since the close of World War II, the Polish people have found themselves under the heel of a Soviet-imposed Communist dictatorship.

Polish Independence Day, which cannot be celebrated in Poland, is, nevertheless, celebrated by Poles scattered throughout the free world who con-